

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1506

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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P/S

UNITED STATES OF AMERICA,

Appellee,

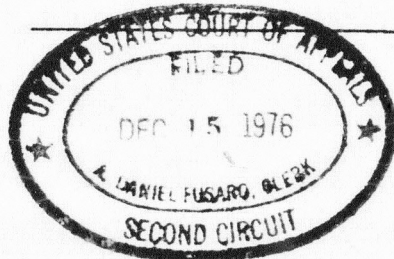
-against -

JOHN QUINN, and THOMAS FURY,

Defendant - Appellant

On Appeal from the United States
District Court, for the Eastern District
of New York,

JOINT APPENDIX TO BRIEF FILED ON
BEHALF OF DEFENDANT -
APPELLANTS



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2 to be testifying in favor of the government.
3 That's what he indicated to me. That's the
4 extent of the conversation. I will not talk
5 about anything else of any privileged communica-
6 tion. I would like permission to go into the
7 facts of this case. I'm not restrained in
8 this particular case?

9 THE COURT: Do the facts of this particular
10 case, as far as you are concerned, involve
11 Mr. Bova at any time prior to the time he
12 talked to you?

13 MR. GOODMAN: No.

14 THE COURT: To be more specific about my
15 direction to you, do not discuss with either
16 Mr. Johnston or Mr. Snyder anything of your
17 contact with Mr. Bova prior to that date.

18 MR. SCHALL: In other words, I think
19 Mr. Goodman is free to discuss with Mr. Snyder
20 the facts of the case as they are developed
21 within the four corners of the courtroom.

22 THE COURT: Of course.

23 MR. SCHALL: He can't discuss it on the
24 basis of communications and information from
25 Mr. Bova.

A - (a)

1
2 them. My concern in proceeding that way was
3 to save time so we won't have to go through
4 needless questioning. I will make them
5 available.

6 THE COURT: Where are the witnesses?

7 MR. SCHALL: They are upstairs.

8 MR. MCCARTHY: May I have a minute.

9 THE COURT: Mr. McCarthy, we will take
10 a ten minute break now. The reporter needs
11 a rest. You can consider it. If you want to
12 talk to the witnesses, speak to Mr. Schall
13 and talk to him. Come back at 4:30.

14 (Recess is taken.)

15 MR. SCHALL: I was able to resolve one
16 problem. I think Mr. McCarthy and Mr. Rabin
17 asked me if I would be willing to stipulate,
18 enter into a stipulation with respect to the
19 sealing question. I would be agreeable to do
20 that. So that I think we're prepared for
21 purposes of reaching a determination on the
22 sealing question with respect to the Queens
23 wiretap. We're prepared to agree, first of
24 all, we can go on the facts in the two Caputo
25 affidavits and also the Gonzales affidavit;

1
2 in addition we will be stipulating on Thursday,
3 July 25th, Friday, July 26th, Monday, July 29th
4 and Tuesday, July 30th, all in the year 1974
5 there were Supreme Court justices sitting in
6 Queens County.

7 THE COURT: What were those dates again?

8 MR. SCHALL: The 25th, 26th, 29th and
9 30th of July in the year 1974.

10 In addition, your Honor, in the interim,
11 while the recess was taken just before the
12 verdict was returned in the other case, I
13 went upstairs and I called the person at the
14 Nassau County district attorney's office who
15 I've been dealing with. I will be having
16 some documentation tomorrow from them. I'm
17 having police officers bring it in tomorrow
18 morning on the question of a designation for
19 Mr. Margolin to properly apply for a wiretap.
20 That was a point raised by Mr. McCarthy.
21 I will have a document pertaining to that.
22 In addition I do want to talk to the man who's
23 presently the executive assistant district
24 attorney there to get some information on him.
25 I would like to call him if I could later this

1
2 MR. RABIN: Our position is these orders
3 must be determined upon the relevant State
4 law not the Federal law. They were State
5 orders out of Nassau County, Queens County.
6 They were based upon the State law. We must
7 confine ourselves to the State law not the
8 Federal law.

9 MR. MCCARTHY: United States v. Manfredi
10 would be in accord with our position.

11 THE COURT: This is an obvious question.
12 I assume it's covered in the papers?

13 MR. SCHALL: The question---

14 MR. MCCARTHY: I thought there wasn't
15 any question concerning them because at the
16 status report last Friday Mr. Schall conceded
17 State law was controlling on this issue even
18 in a federal jurisdiction.

19 THE COURT: I asked the question out of
20 my ignorance. I've never been through a
21 wiretap hearing before. I'm getting an educa-
22 tion hopefully fast and cheap here.

23 MR. SCHALL: It would be my view that the
24 best authority in a situation like this for
25 the Court would be some sort of a statement

1 from the Court of Appeals in the federal
2 system ruling upon the New York statute.
3 We are faced with the New York statute here.
4 That's what we have to contend with.
5 Probably, your Honor, it might be--I'll be
6 prepared and we can argue--assuming tomorrow
7 morning I can have the people here--we can
8 probably go chronologically in terms of the
9 way the wiretaps developed and argue each
10 point as it comes up.
11

12 THE COURT: You'll be prepared to do
13 that?

14 MR. SCHALL: Yes. I'm going to call now
15 and get--I'm having the papers brought in
16 tomorrow on the question of designation.
17 I want to talk to one other person on that.
18 First thing tomorrow morning I'm going to have
19 to have my agent call the personnel office
20 in Nassau to see what we can do to find out
21 where the A.D.A. was in Nassau who handled
22 the sealing of the Nassau wiretap.

23 THE COURT: What's his name?

24 MR. SCHALL: It was Harold Iverson
25 (phonetic). If anyone knows where he is, let

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2 which were used to obtain the extension were
3 beyond the scope of the original order,
4 assuming it to be legal. That is a mini-
5 mization argument, but it's also a constitu-
6 tional argument. It's two-~~pronged~~ pronged. Given
7 a little time, I might be able to come up
8 with something else.

9 I have the cite on Manfredi, 488 F.2d
10 588.

11 THE COURT Is there anything we can
12 accomplish in the next few minutes?

13 MR. RABIN: The only thing is a con-
14 cession that there was untimely sealing. It's
15 just the excuses he's going to give.

16 THE COURT: The dates are in evidence.

17 MR. SCHALL: Yes.

18 MR. RABIN: Right.

19 MR. SCHALL: I think with respect to the
20 Queens wiretap on the question of sealing, I
21 think in view of my concession about sitting
22 justices and the agreement of Mr. Rabin and
23 Mr. McCarthy the affidavit can stand, I think
24 we can proceed. I think the Court has all
25 the facts it needs on sealing.

1 THE COURT: All right. Mr. MacDonia.

2 THE CLERK: Mr. MacDonia, would you
3 step over here, please?

4 R O B E R T M A C D O N I A, having been first
5 duly sworn by The Clerk of The Court, took
6 the stand and testified as follows:

7 THE CLERK: Please state your full
8 name for the record.

9 THE WITNESS: Robert MacDonia. I am
10 a sergeant in the Nassau County Police De-
11 partment.

12 DIRECT EXAMINATION

13 BY MR. SCHALL:

14 Q Mr. MacDonia, by whom are you employed?

15 A By the Nassau County Police Department.

16 Q For how long have you been employed by
17 the Nassau County Police Department?

18 A Approximately 15 years.

19 Q Now, directing your attention to the
20 months of March and April of 1974, were you on duty
21 at that time?

22 A Yes, sir, I was.

23 Q And in what section of the police de-
24 partment were you working in?

25 A The automobile squad.

A-6

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2 Q Now, during the time in March of 1974,
3 when you applied for a wire tap on a telephone in
4 Nassau County--

5 A Yes, sir?

6 Q --was that on the telephone of a
7 Mr. Ronnie Snell?

8 A That's correct.

9 Q Did you and other officers participate
10 in the monitoring of conversations received over
11 this wire tap?

12 A Yes, sir, we did.

13 Q During the time when, directing your
14 attention to 12:01 a.m., on the morning of the 17th
15 of April 1974, was that the time when the wire tap
16 was shutdown?

17 A Yes, sir.

18 Q What, if anything, did you do upon
19 completion of the wire tap with the tapes of the
20 conversations which were intercepted in the course
21 of the wire tap?

22 A During the course of the wire tap,
23 the tapes were removed from the tape sight and trans-
24 ported to, by me, to the office of the automobile
25 squad in police headquarters in Mineola.

1
2 Q And where were they placed in police
3 headquarters in particular?

4 A In a locked cabinet which was main-
5 tained in the automobile office.

6 MR. EVZEROFF: I must respectfully
7 except to that answer, unless the witness
8 knows that of his own.

9 MR. SCHALL: I was going to establish
10 that.

11 MR. EVZEROFF: I withdraw that ob-
12 jection.

13 Q Where was this file cabinet?

14 A Inside the office of the auto squad
15 on the west wall as you enter the office.

16 Q And how was the file cabinet secured?

17 A Lock and key.

18 Q Who maintained the possession of the
19 lock or the key for the file cabinet?

20 A Sergeant Hartog, who was the command-
21 ing officer of the auto squad at that time.

22 Q When you wished to gain access to the
23 cabinet, how would you do that?

24 A I would have to get the key from
25 Sergeant Hartog and open the cabinet myself.

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Q Is it correct to state that he was the only one who had access to the cabinet?

A That's correct.

Q Is this where the tapes of conversations which were intercepted in the course of the wire tap were kept?

A Yes, sir.

Q Now, you testified a moment ago, Sergeant MacDonia, that the wire tap was terminated 12:01 a.m. of the morning of April 17, 1974; is that correct?

A That's correct.

Q And upon completion of that wire tap, were all of the tapes placed in this locked cabinet?

A Yes, sir.

Q How long after the completion of the wire tap were the tapes placed in this cabinet?

A How long after the tape expired?

Q After the plant was actually shut down, were the tapes placed in the cabinet?

A The tapes had been placed in the cabinet all through the wire tap. We had a complete set at the end of the wire tap. The last tapes were placed in there and the cabinet secured.

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Q In other words, the tape was continuing, each day, as a reel was used that would be placed in the locked cabinet?

A Yes.

Q On the completion of the wire tap, the final reel was placed in the cabinet?

A That's right.

Q Was this wire tap being operated under the supervision of the district attorney's office?

A Yes, sir.

Q Now, what if anything, what, if any, efforts did you make upon completion of the wire tap, after the 17th of April 1974, to obtain a sealing order with respect to the tapes of the wire tap?

A Well, I had been in constant contact with Assistant District Attorney Arthur Iberson, who had handled the wire tap from the onset. I gave him periodic reports of the progress we had made and at the end of the wire tap, I notified him that we had completed the tap and what we had intentions of doing at that point, with respect to arrests and search warrants and so forth.

Q How soon after the wire tap had been shutdown, did you contact Mr. Iberson and advise

A-10

him of the fact that the wire tap had been shutdown?

A Immediately; on April 17th.

Q During the period--during the time on May 1, 1974, when you were present when these tapes were sealed--

A Yes, sir?

Q --what, if any, efforts did you make, Sergeant MacDonia, during the period between April the 17th, 1974 and May the 1st, 1974, to obtain a sealing order with respect to these tapes?

A As I stated previously, I had been in constant contact with Iberson, including that period of time from April 17, to up until possibly one day prior to May 1st.

I don't recall the last conversation we had before we finally met and went to Judge Altemieri's chambers for the sealing, but I called him--I guess we spoke approximately six times on the telephone with respect to the sealing of the tapes and also to keep Mr. Iberson informed as to what progress we were making.

Q What, if anything, did you say on the telephone to Mr. Iberson, with respect to the sealing of the tapes?

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2 A I don't recall specifically saying
3 anything other than what I say now, that I have
4 acknowledged that we did speak of it, but the exact
5 wordings of what I said or he said, I can't recall,
6 but--however, it was an item that was discussed
7 during these telephone calls.

8 Q During the period between April the
9 17th, of 1974 and May the 1st, of 1974, when you
10 testified the tapes were sealed, were the tapes
11 maintained in this locked cabinet?

12 A Yes, sir.

13 Q To your knowledge, were the kept
14 in a secured condition in the cabinet?

15 A Yes, they were.

16 Q Now, at this time, Sergeant MacDonia,
17 I would direct your attention to the 7th page of
18 what has been marked as Hearing Exhibit 5, and I
19 ask you to look at the two page document on that
20 page and tell us if you recognize that?

21 A Yes, sir.

22 Q What is that?

23 A That was a deposition that was given
24 by me to Lieutenant Patrick Flynn of the New York
25 City Auto Squad, with respect to certain conversa-

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2 tions that had been intercepted on the wire tap
3 that Nassau County operated.

4 Q Did you give this deposition in
5 connection with Mr. Flynn's request for on wire
6 tap in Queens County?

7 A Yes, sir.

8 Q Now, how did you prepare this deposi-
9 tion? Did you appear in court for it?

10 A No, sir.

11 Q How was it prepared and transported
12 to Lieutenant Flynn?

13 A I typed it. I had my signature nota-
14 rized and the gentleman from Mr. Flynn's office
15 was present at our office and picked it up and de-
16 livered it to Mr. Flynn, I presume.

17 MR. SCHALL: Your Honor, I have no
18 further questions on direct.

19 THE COURT: Mr. Evzeroff, any ques-
20 tions?

21 MR. EVZEROFF: My associate will
22 examine him.

23 THE COURT: I thought from your ob-
24 jection you would handle this.

25 MR. EVZEROFF: It occurred to me

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2 at the moment. In any event, I withdrew
3 the objection.

4 THE COURT: Generally, I want one
5 attorney per defendant, per witness.

6 MR. EVZLROFF: I am not going to
7 question him.

8 CROSS EXAMINATION

9 BY MR. RABIN:

10 Q Sergeant, the tap on the phone of
11 Ronnie Snell began on what date?

12 A The Auto order was signed on Marcy 15,
13 1974, effective March 18, but I don't believe we
14 had it in operation until March 20.

15 Q Between March 20 and April 17, 1974,
16 how many officers worked on the tap?

17 A Approximately six.

18 Q Is it fair to assume, Sergeant
19 MacDonia, that you were not present 24 hours a day
20 during that time period at the tap?

21 A That's correct.

22 Q Now, Sergeant, when a tape was placed
23 on the machine, conversations were recorded and
24 that tape was filed and removed from the machine,
25 what was done with that tape?

A-14

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2 A It was placed in storage at the tap
3 sight until I removed it from there and transported
4 it to the automobile squad office.

5 Q Were you the only officer that trans-
6 ported tapes?

7 A Yes, sir.

8 Q During the period of March 20 to
9 April 17, did you have any days off?

10 A Yes, sir.

11 Q So then, in effect, there were days
12 when tapes would sit at the tape sight for more than
13 several hours and more than a single day; is that
14 correct?

15 A That's correct.

16 Q Now, officer, how many times did you
17 transport tapes from the tap sight to police head-
18 quarters?

19 A It was done on almost a daily basis.

20 Q Officer, how many times?

21 A I don't know. The number of days
22 would approximate the times that I transported tapes
23 from the tap sight to the office at the auto squad.

24 Q What time during the day would you
25 normally transport your tapes?

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2 A It depended on what tour I was work-
3 ing. We were working, generally, two tours. We
4 didn't keep the same tours from the onset of the
5 tap until the completion because we had to adjust
6 our tours to suit the activity that was coming over
7 the tap.

8 The tours that we did work, basically,
9 were I believe 8 to 4 and 4 to 12. However, there
10 were days we adjusted and we worked 9 to 5 and 5
11 to 1 or 5 to 2.

12 Q The tours that you worked from 4 to 12
13 or 5 to 1, whatever they might be, at the conclusion
14 of these tours, did you transport tapes to head-
15 quarters?

16 A On the 5 to 12?

17 Q Yes.

18 A I may have. I don't recall specifical-
19 ly.

20 Q Between the hours of 12 midnight and
21 8 in the morning, are you telling us that the plant
22 was shutdown?

23 A That's correct.

24 Q And the tapes that had been accumulated
25 during the day, where were they kept?

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2 A I think I had transported them into
3 the auto squad or they were kept in storage at the
4 tap sight until the following morning when I returned.

5 Q Where was the tap sight?

6 A It was a public school building in
7 Commack.

8 Q In Commack?

9 A Yes, sir.

10 Q And your tap was running during a
11 period of time when school was in session; is that
12 correct?

13 A That's correct.

14 Q Is it not correct that during the hours
15 when you were not in the building, other people had
16 access to the room where the tap was in progress?

17 A I don't know that for a fact. I can
18 say that the people who ran the school most cer-
19 tainly would have had access to that room. It was
20 down in the basement but as far as free access, it
21 wasn't a room where anybody could walk in and out of.

22 Q The custodial and supervisory people
23 people had access to the room?

24 A I had not seen anyone down there, but
25 I assume in an emergency they would have had access

1
2 to it.

3 Q Now, officer, the cabinet at police
4 headquarters, was that the cabinet used for evi-
5 dence?

6 A The bottom two drawers. It was a
7 four drawer cabinet, approximately five foot high.
8 The bottom two drawers were for my use and the top
9 two drawers contained cases from past years that
10 were not needed at the time.

11 Q Now, the top, the four drawers in the
12 cabinet, they were all opened and locked by one
13 lock and key; is that correct?

14 A That's correct.

15 Q If during the day another officer
16 wanted access to any of the files in the top drawers
17 and he unlocked the cabinet, that would unlock the
18 drawers where the tapes were stored; is that correct?

19 A That's correct.

20 Q Were there times, sergeant, when you
21 arrived at police headquarters and Sergeant Hartog
22 was not present?

23 A No, sir, not that I recall.

24 Q So it is your testimony that every
25 time you came to headquarters to place a tape in

A-18

1
2 that cabinet, the sergeant was there to unlock it
3 for you?

4 A Yes, sir.

5 Q So, officer, from your own knowledge,
6 activity, and your observation of this cabinet, you
7 can not tell us whether or not anybody else opened
8 that cabinet to audit those tapes, listened to those
9 tapes or tampered with those tapes; from your own
10 knowledge?

11 A They would have to see Sergeant
12 Hartog--

13 Q From your own personal knowledge?

14 A I didn't say that nobody took the
15 tapes out.

16 Q Fine. On April 17, 1974, when the
17 tap was concluded, what time did you contact A.D.A.
18 Ibersen?

19 A I would say approximately 10 o'clock
20 in the morning.

21 Q By the way officer, do you have any
22 notes or memoranda concerning your activities during
23 the period of March 20 to April 17, 1974?

24 A On me now or do you mean the case?

25 Q Do they exist? Do you have or did

A-19

1
2 you make such notes? ~

3 A Sure.

4 Q Do you have those notes with you today?

5 A I have one brief note in my pocket
6 with respect to the dates of the wire tap and my
7 activities from the completion of the wire tap, as
8 far as I can recall.

9 Q Do you have any notes or memoranda
10 concerning your tours of duty and times and trans-
11 portation of tapes?

12 A I am almost certain that there would
13 be notes in effect on the case system.

14 Q Did you make notes?

15 A Well, during the course of the wire
16 tap, we maintained log sheets. That is, each
17 officer that works on wire tap will complete a log
18 sheet covering the time that he was assigned, to
19 the time he signed off and a brief synopsis of the
20 messages he intercepted.

21 Q Officer, you were the officer that
22 transported the tapes; is that correct?

23 A Yes, sir.

24 Q Do you have any notes and memoranda
25 indicating the times and dates when you transported

A-20

1
2 the tapes from the tap sight to police headquarters?

3 A I don't believe so, no.

4 Q Do you have any notes or memoranda
5 concerning your conversations with A.D.A. Ibersen,
6 as to the sealing of the tapes?

7 A No, sir.

8 Q Sergeant, on April 17, you spoke to
9 A.D.A. Ibersen and informed him that the plant had
10 been shutdown; is that correct?

11 A That's correct.

12 Q Between April 17 and May 1, you stated
13 that you spoke to him approximately six times and
14 discussed the sealing; is that correct?

15 A The sealing, among other things.

16 Q Now, between April 17 and May 1, did
17 you ever, yourself, contact the issuing
18 Justice Altomieri and request the sealing of the
19 tapes?

20 A No, sir.

21 Q Did you yourself ever contact any
22 other Supreme Court, County Court, or District Court
23 judge in Nassau County and request and present the
24 sealing of the tapes in this matter?

25 A No, sir.

A-21

MR. RAELIN: No further questions.

CROSS EXAMINATION

BY MR. MCCARTHY:

Q I just have a few questions.

Initially, let me ask you, when you operated the plant or the tape, at any one time, how many officers were present while the tape recording was being made at the school?

A Generally, there were two officers that were assigned that particular tour but in the changing of the tours, there were probably four. There could have been maybe one extra officer from headquarters dropping something off. I don't recall.

Q If you could tell us as the tape recording was made, or after the tape recording was made, was there a second tape recorder in the room so that the second officer could listen to the recording?

A There was a second tape recording, I remember, in the room, but when he got--I would say there were times when the officer who had listened to a particular reel or recorded a particular reel, did have an opportunity to play it on a second recorder and that is how some of our transcripts

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2 were made, but generally it was too busy. There
3 was more than one on the 17th.

4 Q In other words, so, after the first
5 recording was made, that is, an original recording
6 based upon a conversation that was intercepted, a
7 second officer would listen or would play the
8 original tape again at the plant, from time to time;
9 is that correct?

10 A I am not sure I follow your question.

11 Q Let me ask you this:

12 Rather than taking the original
13 recording after you had recorded the intercepted
14 conversation and placing it inside the storage
15 area at the school, where you kept a tape, the
16 second officer from time to time would play the
17 original recording at the school; is that correct?

18 A No. That is incorrect.

19 Q Let me ask you this:

20 When the officers at the school in
21 making those recordings, did they make duplicates
22 from the original recordings?

23 A That was our intention, but--

24 Q Did they do it?

25 A You are speaking of the fellows who

1
2 worked that particular tour? That was an intention
3 that they could make a copy of the tape that we
4 could work off.

5 Many times they were very busy and
6 didn't have the opportunity to do this.

7 Q Do you know of any instances where
8 a duplicate was made from an original at the school,
9 where the interceptions were being made?

10 A No, I don't.

11 Q So that in order to make the tran-
12 scripts that you referred to before, the second
13 officer had to replay the original tape; isn't that
14 correct?

15 A That's correct.

16 Q As he was replaying the original tape,
17 he was making notes as to the conversation?

18 A That's correct.

19 Q He was trying to make verbatim notes?

20 A Correct.

21 Q So he was playing, have need to play
22 and replay that original tape; isn't that correct?

23 A It's likely.

24 Q And if you know, how many times were
25 the original tape recordings played and repla d

A-24

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2 before they were placed into the locked cabinet
3 at police headquarters?

4 A I don't know.

5 MR. MCCARTHY: I have no other ques-
6 tions, your Honor.

7 CROSS EXAMINATION

8 BY MR. SNYDER:

9 Q Officer MacDonia, I would like to
10 explore the six or eight or 15 day period between
11 the time when this work done by yourself and officers
12 on your staff was complete at the time when the tapes
13 were ultimately sealed.

14 Tell me about the first day at 12:01.
15 You had completed the wire tap; is that right?

16 A That's correct.

17 Q Then what did you do?

18 A The plug was pulled at 12 midnight.
19 I was not working that night. I think, fairly
20 correctly, it was Detective Stamm and Detective
21 Panisch from the auto squad. They left the tap
22 sight; secured the building.

23 Q They secured the building?

24 A The building was alarmed so there was
25 a priority we had to notify the security in control.

A-25

1
2 that we were now opening the door and closing the
3 door and so forth.

4 Q And you assumed that was done?

5 A That was the normal procedure, every
6 night.

7 Q So, your testimony is based on the
8 assumption that they followed procedure and not on
9 your own personal knowledge?

10 A I was not there.

11 Q The fact is, the completion of the
12 wire tap is something you were told, you have no
13 personal knowledge of it?

14 A That's correct.

15 Q Were you personally advised as to the
16 officer in charge of this, that it had been shutdown?

17 A Yes, sir.

18 Q At 12:01?

19 A At 12 midnight.

20 Q How were you advised?

21 A I was informed by, I believe, Detective
22 Panisch.

23 Q Were you on duty at the time?

24 A When I was informed?

25 Q Correct.

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A Yes, sir.

Q Now, you worked closely with this A.D.A. on a regular basis?

A Mr. Ibersen?

Q Yes.

A During the course of this wire tap, I worked closely with him, naturally.

Q Did he have your home phone number?

A I don't believe so.

Q Did you have his?

A No, sir.

Q Did you have access to any U.S. attorney's or state A.D.A.'s number, any person who could have assisted you legally at that time?

A No, sir.

Q Legal services were unavailable to you as a police officer; is that what you are saying?

A That is not quite correct. If there were emergencies, I guess, through my department, I would almost guarantee that I could have the assistance of a district attorney.

Q If you needed immediate legal services, you had an opportunity to get them; is that correct?

A In the course of an emergency, I would

A-27

1
2 say, yes.

3 Q Instead of the word, "Emergency,"
4 let's use the word immediate.

5 If you needed immediate counsel and
6 advice, you had the opportunity to secure that didn't
7 you? Just yes or no.

8 A The question is kind of broad. If I
9 worked in a particular squad who used assistant
10 district attorneys frequently during office hours,
11 they can contact this district attorney. They have
12 a number to contact him.

13 With respect to this wire tap, which
14 I assume you are talking about, there was never any
15 number given to me that in the event that I needed
16 the assistance of a district attorney, that this is
17 the number to call at 2 o'clock in the morning.

18 Q Officer, as a police officer of Nassau
19 County New York, did you have access to immediate
20 legal advice and counsel at 12:01 a.m., at the night
21 this transaction was completed? Yes or no.

22 A I would have to say, yes.

23 Q And when you used the expression
24 earlier in your testimony that you contacted the
25 A.D.A. immediately, you didn't mean immediately?

A-28

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2 You meant ten hours later; is that right?

3 A When I reported for work the following
4 day, yes, sir.

5 Q But not immediately as your previous
6 testimony was; is that correct?

7 A Not immediately at one minute after
8 12, no, sir.

9 Q Now, at that time on the date of the
10 completion of that wire tap, were you familiar with
11 the requirement of the law of the State of New York,
12 as to what may be done in the way of sealing of
13 those tapes? First, please say yes or no.

14 A Yes.

15 Q Isn't it a fact that what must be
16 done, that must have been done on that date in
17 1974, was that a sealing order had been immediately
18 secured?

19 A Correct.

20 MR. SCHALL: That is really a question
21 of law. I would object on that basis.

22 MR. SNYDER: You are saying that the
23 witness is incompetent?

24 THE COURT: Please address your state-
25 ments to me.

1
2 MR. SNYDER: Yes, your Honor.

3 THE COURT: Can you tell me what
4 relevance this witness's knowledge of the
5 law has to do with the issue before us?

6 MR. SNYDER: I can show that this
7 man had a duty and this duty was violated.

8 THE COURT: What is the importance
9 of his knowing the duty? Is good faith in
10 my element of determination?

11 MR. SNYDER: It may be, your Honor.

12 THE COURT: If you acknowledge it is,
13 you may continue.

14 MR. SNYDER: I believe so.

15 CTD. CROSS EXAMINATION

16 BY MR. SNYDER:

17 Q What was your duty?

18 MR. MCCARTHY: Judge, if I might
19 just--at this time we are not questioning.
20 Our position on behalf of Mr. Fury, is that
21 good faith is not an element. Your are ob-
22 jecting to this question. I just want the
23 Court to know that good faith is not an
24 element.

25 MR. SNYDER: I am not suggesting

1
2 that good faith is a matter. If the evidence
3 should come to pass that this in fact existed,
4 it would be relevant. I don't know whether
5 there was good faith. I assumed there was.

6 I think if a man did not follow an
7 obligation that he knew--the man should have
8 done something but did not do it. Whether
9 he had an ill motive or not is not something
10 that is not apparent.

11 THE COURT: You are trying to inquire
12 as to his knowledge of the law and if he
13 knew and did not perform it and assuming
14 this is what you are contending, then we have
15 something that might bear on bad faith.

16 The contention of Mr. McCarthy is at
17 least whether he knew his obligation or not
18 makes no difference. The mere fact that he
19 did not do it is enough to grant you the
20 relief that you are claiming here.

21 MR. SNYDER: I agree with Mr. McCarthy's
22 position.

23 THE COURT: Why are you pursuing his
24 knowledge of the law?

25 MR. SNYDER: Because it would add to

1
2 the violation of a known duty and would be
3 detrimental.

4 THE COURT: You are saying that good
5 faith is an element?

6 MR. SNYDER: The good faith or lack
7 thereof.

8 MR. RABIN: With respect to counsel,
9 I would like to join with counsel, at this
10 time.

11 THE COURT: Are you joining in the
12 objection?

13 MR. RABIN: Yes, sir, your Honor.

14 THE COURT: Objection sustained.

15 MR. SCHALL: I think the Court should
16 be made aware of the fact that I have not
17 objected to the question of Mr. Rabin or
18 Mr. Snyder, that the Government would take
19 the position, with respect to sealing,
20 neither Mr. Johnston nor Mr. Quinn, have
21 standing to challenge the sealing with
22 respect to the Nassau Wire Tap. I will
23 argue this more at length at the proper
24 time.

25 It is our position that neither of

1 these two defendants, with respect to this
2 wire, is an aggrieved person. I can see
3 that they have standing to challenge the
4 other question of the Queens wire tap, but
5 neither of them as an aggrieved person with
6 respect to the state. Their conversations
7 were not intercepted and they were not named
8 in the wire tap.
9

10 We take the position as far as the
11 sealing on the Nassau Wire Tap is concerned,
12 they have no standing.

13 MR. RABIN: With all due respect to
14 Mr. Schall, I must state that Mr. Quinn and
15 Mr. Fury, do have standing on the Nassau
16 Wire Tap but--

17 THE COURT: I am not going to rule
18 at this point as to standing. I am going
19 to assume that your participation in this
20 question of sealing on the Nassau County
21 Wire Taps is correct. I may ultimately
22 rule in Mr. Schall's favor on this, but
23 not without hearing you at a later date.

24 I assume for present purposes you
25 have standing. I will withdraw my ruling

1
2 that the objection is sustained. It is
3 overruled.

4 CTD. CROSS EXAMINATION

5 BY MR. SNYDER:

6 Q What was your duty at the moment
7 that that wire tap was completed, if you know?

8 A At the time the wire tap was completed,
9 my duty was to see that the plug had been pulled on
10 the machines. That was done. I was informed.

11 With respect to the sealing, I knew
12 the tapes had to be sealed but being in contact with
13 an assistant district attorney, that was not my
14 province.

15 Q Had you been advised that the tapes
16 were to be sealed immediately?

17 A No, sir.

18 Q At no time prior to the termination
19 of the tap, did you have access to that information;
20 is that correct? Or did you forget; which is it?

21 A No, sir. I am a police officer. I
22 have, I guess, as many law books in my office and
23 I suppose if I read every one of them I would find,
24 if what you contend is true, that the tapes should
25 have been sealed immediately. I might have found

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1 that in one of those law books.

2 My knowledge was that at the end of
3 the wire tap, the plug was to be pulled promptly
4 at the time the wire expires and sealed thereafter.

5 Q If you were aware that the law requires
6 be sealed and it was not done between the end of
7 the--
8

9 MR. SCHALL: I object. That is the
10 question that the hearing and legal argument
11 will have to determine whether or not, when
12 a defendant in this case of law, whether or
13 not there was a sealing.

14 MR. SNYDER: Under a rule of evidence,
15 he is allowed to answer the question with
16 respect to that.

17 THE COURT: Whether the question is
18 argumentative as to form, the question as
19 argumentative as to form.

20 If the rule is that at 12:02 these
21 tapes had to be sealed by a Judge, then
22 obviously if they weren't sealed 13 days
23 later, the law was not complied with and
24 whether this witness agrees with this state-
25 ment or not is no help with having me deter-

A-35

mine the issue.

MR. SNYDER: I will not pursue that line.

THE COURT: The question is underscoring it and this witness is not competent to answer that question.

CTD. CROSS EXAMINATION

BY MR. SNYDER:

Q How many judicial officers were available to you as a police officer during that interim period, between the time of the termination and the time of sealing?

THE COURT: The Court will take judicial notes that there are some 24 Supreme Court Judges in Nassau County, if it helps.

MR. SNYDER: It helps.

Q What access do you have to the Judges, if any, officer?

A I would have to see an assistant district attorney first; go through more challenges. I just couldn't walk into a Judge's chambers.

Q And tell him that you were there to comply with the law of the State of New York? You could not do that?

A-36

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2 A I don't believe I could, not without
3 consulting with an assistant district attorney, first.

4 Q On how many of these six occasions
5 that you conversed with the assistant district at-
6 torney, did you tell him, sir, we must get these
7 tapes before a Judge at once?

8 A I don't recall ever having said those
9 words to Mr. Iberson.

10 Q Do you recall having said words of
11 similar importance?

12 A I testified previously, I knew we
13 discussed the sealing of the tapes, but I don't
14 recall any specific words that I spoke or that
15 Mr. Iberson spoke. It was a subject that was
16 discussed, among other things, and I would have to
17 leave it stand as that. I don't recall any specific
18 conversations.

19 Q Do you recall any effort on your behalf
20 or on behalf of any of your subordinates or superiors
21 that you had knowledge of in that interim period of
22 days, that an effort was made to get the tapes
23 sealed?

24 A Yes. My conversations and my tele-
25 phone calls to Mr. Iberson and Mr. Iberson's tele-

A-37

1 phone calls to me.

2 Q What was the nature? Give some of
3 that in depth, in greater depth than you have.

4 A I would assume, I don't know for a
5 fact, but I would assume that there was--that
6 Mr. Iberson was working on an opportune time when
7 he would see Judge Altemieri, to bring those tapes
8 before him. I don't recall, again, specifically,
9 but I thought that Judge Altemieri had a trial going
10 on at that time and, again, this happened in 1974
11 and I am trying to recall conversations that we had
12 and I just don't know. It seems I have a vague
13 recollection of a trial. I don't know if that would
14 have--
15

16 Q Where is the A.D.A.'s office with
17 respect to the office and chambers of those 24
18 Judges?

19 A Within a close proximity; it is within
20 walking distance.

21 Q An A.D.A. has daily dealings with
22 those Judges; is that correct?

23 A I wouldn't say he has daily dealings
24 in the Supreme Court Building, but he is familiar
25 with the building and I assume, again, that he has

A-38

1
2 had some dealings.

3 MR. SCHALL: I think we are going
4 into an area of knowledge of Mr. Ibersen
5 and his familiarity with certain things, and
6 it is not an area that this witness is com-
7 petent to testify.

8 Q Do you know if Mr. Ibersen admitted
9 to practice law in the Supreme Court?

10 THE COURT: I think Mr. Ibersen is
11 warned with his unfamiliarity with Nassau
12 County Judicial and District Attorney's
13 offices operates and not about any real
14 issues on the case.

15 MR. SNYDER: It may become at some-
16 time that at some point might want to know
17 about the information.

18 THE COURT: The Supreme Court houses
19 the building that houses all the Supreme
20 Court Judges about one block from where it
21 houses the attorneys.

22 Some are handled in Supreme Court
23 and the reason for the reluctance of the
24 witness to agree that he was before the
25 - Supreme Court Justice on a daily basis,

A-39

1
2 weekly, or monthly but not daily. It is
3 only a block away and they are authorized
4 to proceed in Supreme Court.

5 MR. SNYDER: Thank you, your Honor.

6 CTD. CROSS EXAMINATION

7 BY MR. SNYDER:

8 Q Is Sergeant Hartog's office in the
9 same room with the file cabinet?

10 A It is in an adjoining room. There
11 are two rooms in the auto squad.

12 Q Is there a glass wall or steel wall
13 in between them?

14 A There is a doorway and a plaster wall.

15 Q How many people share Sergeant Hartog's
16 office?

17 A Just one person. Just himself.

18 Q How many people are in the other
19 office?

20 A Approximately eight; eight or at that
21 time there may have been one or two more. But
22 approximately eight people.

23 Q So there may have been as many as nine
24 or ten?

25 A There were eight; eight detectives.

A-40

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2 Q Is there any secretarial personnel
3 that occupies that office from time to time; clerical
4 help?

5 A No, sir.

6 Q Where are they located?

7 A There are none for the auto squad.

8 Q Now, the cases in the top two drawers,
9 there are cases of other officers inside yours; is
10 that correct?

11 A That's correct.

12 Q Did any other officer at any time
13 take to share those bottom two drawers with you
14 during the time of this wire tap?

15 A No, sir.

16 Q Are you familiar with all the contents
17 that occupy those two bottom drawers during that
18 entire period of this wire tap and thereafter until
19 the sealing order?

20 A That's correct.

21 Q Do you know, of your own personal
22 knowledge, how many keyes exist to that file cabinet?

23 A No, sir.

24 Q Do you know whether or not any officer
25 from any other department may have access to it?

A-41

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A No, sir.

3

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6

Q Do you know what Sergeant Hartog's personal policy is as to who and under what circumstances he will deliver a key to another officer or other personnel?

7

8

A To give them access to the drawers that I was using?

9

10

Q Do you have knowledge of his personal policy?

11

12

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14

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18

A I had been told by Sergeant Hartog that the drawers were used for my purpose only for this wire tap. I don't understand that. I don't recall any verbal policy that he stated to other members of the squad or myself. These were my drawers and they were labeled with the case number on the drawers and I don't any lengthy policy that he decided with respect to those drawers.

19

20

MR. SNYDER: I have no further questions.

21

22

MR. SCHALL: I have no questions on redirect, your Honor.

23

24

25

MR. RABIN: Judge, if I may, I have a few more questions for the witness, for the officer, if I may?

A-42

THE COURT: All right.

BY MR. RABIN:

Q Sergeant MacDonia, after the original tapes were recorded, did there come a time when duplicates were made, that you know of?

A I don't believe there were duplicates made. I don't recall, to tell you the truth.

Q Officer, did you testify in the grand jury pertaining to information derived from the tap that you were sighting on?

A Yes, sir.

Q Were certain of the tape recordings made for the grand jurors?

A I don't believe they were.

Q Were certain of the transcripts presented to the grand jurors?

A Yes, sir.

Q Did there come a time after May 1, 1974, that you listened to those tapes again?

A Yes, sir.

Q When?

A During the trial for the three defendants.

A-43

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2 Q Prior to the trial, did you ever
3 hear those tapes in preparation for it?

4 A Yes, sir.

5 Q How long prior to the trial was that?

6 A I believe it was one week prior to
7 the beginning of the trial when we played a tape
8 for counsel.

9 Q Where was that?

10 A In Judge Brietel's Court room in the
11 County Court Building.

12 Q Officer, did you ever personally
13 secure an order from Judge Altemieri, permitting
14 the unsealing of those tapes?

15 A Yes, sir.

16 Q You did?

17 A Yes, sir.

18 Q Do you have that order with you?

19 A No, sir.

20 Q Did you ever, after listening to the
21 tapes, and playing them for counsel, secure an order
22 resealing the tapes?

23 A Yes, sir.

24 Q From whom was that?

25 A From Judge Vitale', again.

A-44

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2 Q Do you have that order?

3 A Can I clarify that? You are asking
4 me do I have an order. I went before Judge Vitale'
5 to unseal the tapes. I appeared before him to seal
6 the tapes. He didn't hand me an order himself but,
7 however, I assume he gave it to the assistant
8 district attorney who tried the case.

9 Q Officer, then from your own knowledge,
10 you don't know at this time whether or not there was
11 a written order from any Supreme Court Judge per-
12 mitting the unsealing of the tapes or the resealing
13 of the tapes; isn't that true?

14 A From the Supreme Court Judge?

15 Q From any Judge.

16 THE COURT: From Judge Vitale'?

17 Q Do you know of your own personal
18 knowledge if there was an order in existence?

19 A No, I don't.

20 MR. RABIN: Thank you.

21 THE COURT: Anybody else?

22 MR. SCHALL: I might just ask one
23 or two questions.
24

25 BY MR. SCHALL:

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Q Sergeant MacDonia, at the time the tape recordings--at the time the plant was in operation, how many recordings were being made of the conversations that were being intercepted?

A I am sorry, I missed the last half of the question.

Q At the time the wire tap was in operation, how many recordings were being made of conversations which were being intercepted?

A Two recordings.

Q And was one of those recordings sealed immediately? I don't mean sealed in terms of the Court, but sealed at the plant.

A I am sorry. With respect to sealing, unsealing the box you mean?

Q That is correct.

A No.

Q Was only one of those sets of recordings used to make transcripts at the plant?

A Yes, sir.

MR. SCHALL: I have no further questions, your Honor.

THE COURT: You say two recordings Sergeant--MacDonia? Is that duplicate

A-46

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2 recordings of the same conversations or
3 separate recordings of different conversa-
4 tions?

5 THE WITNESS: The way the wire taps
6 are setup, there are two recording machines
7 for each telephone. A primary machine and
8 a secondary machine. The secondary machine
9 would record only those conversations that
10 were criminal in nature. The primary ma-
11 chine would record all conversations in its
12 entirety.

13 It is my knowing that this is to be
14 used or could be used as a check against
15 those tapes that were intercepted for use
16 in Court.

17 THE COURT: Which were the tapes
18 which were kept in the locked drawer and
19 subsequently sealed by the Court?

20 THE WITNESS: All tapes; primary
21 and secondary.

22 THE COURT: Both sets?

23 THE WITNESS: Yes, sir.

24 THE COURT: Approximately how many
25 reels of tape are we talking about?

A-47

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2 THE WITNESS: I believe it was one
3 hundred and one tapes.

4 THE COURT: Have you handled other
5 wire taps prior to this?

6 THE WITNESS: I had one other at
7 that time.

8 THE COURT: With respect to the key
9 to the locked file cabinet, you said when
10 you want to get into the file cabinet you
11 had to get the key; is that correct?

12 THE WITNESS: That's correct.

13 THE COURT: When you went to get
14 the key, where was it kept?

15 THE WITNESS: I believe it was on
16 a key ring that Sergeant Hartog either had
17 on his person or in his desk, depending
18 on what he was doing at the time.

19 There were times I recall him giving
20 me the key from his pocket and other times
21 when he had to go into his office and then
22 come back with the key.

23 THE COURT: Did you ever see dupli-
24 cate keys in the office?

25 THE WITNESS: No, sir.

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2 THE COURT: With respect to the
3 order for unsealing the tapes before
4 Judge Vitale' and resealing, you said you
5 had never seen any piece of paper which
6 was an order for either of these purposes;
7 is that right?

8 THE WITNESS: That's correct.

9 THE COURT: Was Judge Vitale' present
10 when the tapes were unsealed?

11 THE WITNESS: Yes, he was.

12 THE COURT: Was he present when they
13 were resealed?

14 THE WITNESS: Yes, sir.

15 THE COURT: Did he direct that they
16 be unsealed and resealed?

17 THE WITNESS: Yes, he did.

18 THE COURT: No other questions,
19 gentlemen.

20 MR. MCCARTHY: Yes, your Honor.

21 RECROSS EXAMINATION

22 BY MR. MCCARTHY:

23 Q Sergeant MacDonia, as I understand it,
24 you just told the Court that there were two tape
25 recorders playing and recording simultaneously when

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2 the intercept was made; is that correct?

3 A Yes, sir.

4 Q And there was a primary and secondary
5 recording; is that correct?

6 A That's correct.

7 Q And the primary recorder recorded all
8 conversations; is that correct?

9 A Yes, sir.

10 Q Every single conversation that was
11 had over those wires; is that correct?

12 A That's correct.

13 Q And the secondary tape recorder
14 recorded only those conversations which were
15 authorized by Justice Altemieri's order; is that
16 correct?

17 A Yes, sir.

18 Q So there was no attempt to minimize
19 recordings?

20 MR. SCHALL: Objection, your Honor.

21 THE COURT: On what grounds?

22 MR. SCHALL: Minimization is not an
23 issue in this case.

24 MR. MCCARTHY: If it is not clear
25 as a result of my questioning, I am now

1
2 adding to my papers because of this
3 new and previously unknown evidence of two
4 recordings; two sets of recordings. The
5 information provided to us was that there
6 was one recording and I respectfully submit,
7 that based upon the order of Judge Altomieri,
8 minimizing and the transcripts of the con-
9 versations that were given to us, that there
10 was no reason to believe that there were two
11 simultaneous tape recordings being made at
12 that time, and certainly no reason to believe
13 that there was any interceptional advising
14 as is apparent at this time, of Mr. Justice
15 Altomieri's order.

16 Justice Altomieri's order is clearly
17 requiring minimization and it is clear, Judge,
18 that there is intentional violation of it.

19 MR. SCHALL: If I might:

20 I would submit, initially, based
21 upon my knowledge, that there was minimiza-
22 tion and the facts would establish that but,
23 number 2, none of the defendants in this case
24 have standing on the minimization on the
25 plant number one on the Nassau County Tap.

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2 I think the decision of second circuit
3 in the U.S. vs. Poeta, is very clear that un-
4 less you have an interest in the telephone
5 where the wire tap is located, you have no
6 standing to challenge minimization. It is
7 very clear and very explicit on that point.

8 Mr. Fury has standing to challenge
9 minimization on the Queens Wire Tap.

10 Mr. Johnston and Mr. Quinn do not, but none
11 of the defendants have standing to challenge
12 minimization on the Nassau County Wire Tap
13 and the reading of the Poeta Decision of the
14 second circuit makes that very clear. It
15 is totally irrelevant in the total deter-
16 mination of this hearing.

17 THE COURT: Mr. McCarthy?

18 MR. MCCARTHY: Unfortunately, I am
19 not familiar with the Poeta Decision and
20 therefore can not respond to Mr. Schall's
21 argument on that basis, but it seems to me
22 that if minimization is statutorily required
23 as indeed it is in the state, and if it is
24 constitutionally required as Berger vs. U.S.,
25 and if there is an overhearing of anybody's

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2 conversations as a result of the order, we
3 should have a right to test the scope of
4 the original order as complied.

5 We don't contest that Judge Altemieri
6 was valid in that respect, but in the inter-
7 ceptional violation of that order, we submit
8 we are an aggrieved persons within the meaning
9 of statute and within the meaning of the con-
10 stitution.

11 , THE COURT: The only way that you can
12 be aggrieved is that material which was
13 within the scope of Judge Altemieri's order
14 was revealed through the Queens County people
15 and used as the basis for the tap against
16 your client.

17 MR. MCCARTHY: I think the law, and
18 I haven't read the Poeta Case, if there is
19 an attempt of minimization, then those con-
20 versations which were, those conversations
21 which were improperly received or intercepted
22 are suppressed, but if there is no attempt
23 at minimization then all conversations must
24 be suppressed, whether they are within the
25 original meaning of the order or not.

1
2 In effect to make an analogy, what
3 I am contending--

4 THE COURT: I understand what you are
5 saying.

6 MR. MCCARTHY: In general, Judge,
7 this is a general search. The judgment order
8 may have validity but it was for all conver-
9 sations.

10 THE COURT: By your own analogy, you
11 fall a little bit short unless you can
12 support it, that the law is, if you have a
13 search warrant for items a, b, c, and under-
14 stand that warrants you conducting a general
15 search, you are then entitled to suppress
16 having found a, b, and c, because you did
17 order things that were wrong.

18 MR. MCCARTHY: I would submit that
19 the law is and I haven't checked it recently,
20 the scope of the suppressions with respect
21 to everything that was received because of
22 the nature of the search.

23 THE COURT: It may well be. I don't
24 know.

25 MR. MCCARTHY: And the fact that the

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2 officers acted with authorization in limit-
3 ing their search may have in effect resulted
4 in the seizure of items properly received
5 that the scope of their intention and purpose,
6 that is a general search, requires a suppres-
7 sion of everything received.

8 / THE COURT: What you are arguing,
9 specifically, with respect to the taps here,
10 in Nassau County, is that Judge Altieri's
11 order was limited to certain activities
12 related to stolen vehicles.

13 MR. MCCARTHY: That is correct.

14 THE COURT: That, despite the limita-
15 tion, they recorded everything on one tape,
16 while--and limited it on the second tape,
17 and because they kept the complete tape, that
18 invalidates everything they did and everything
19 that follows from that. Is that what you
20 are arguing?

21 MR. MCCARTHY: Not only because they
22 kept it but because they made it.

23 THE COURT: When I say kept, I mean
24 in the sense of pre-searching it as it came
25 through; keeping it thereafter.

A-55

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2 MR. MCCARTHY: As I said before, I
3 didn't make this specifically in my motion
4 and therefore seek to aim my motion as another
5 prong of this motion. I believe it is
6 number 14.

7 MR. SCHALL: Your Honor, in response,
8 I think I would argue with the reading of
9 the Poeta Decision, it makes it clear that
10 minimization is not an issue in this case.

11 THE COURT: I am not going to make
12 a final decision at this point, but I am
13 not going to preclude him from questioning.
14 Certainly, this whole discussion here arose
15 out of a question which started out as being
16 argumentative in form, which was never finish-
17 ed because it was objected to.

18 Do you recall the question?

19 MR. MCCARTHY: Frankly, Judge, I
20 don't.

21 THE COURT: Can you proceed?

22 MR. MCCARTHY: Yes, Judge.

23 CTD. RECROSS EXAMINATION

24 BY MR. MCCARTHY:

25 Q Sergeant MacDonia, you said that

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2 during the course of the interception of these wire
3 taps, transcripts would be made of the conversations
4 and that those transcripts would be made at the
5 school; is that correct?

6 A There were times when the transcripts
7 were done at the school but most times, I did it
8 in the office when I brought the tapes in.

9 Q I am sorry. Is it your testimony
10 now, that there were transcripts made at the school
11 and at your office, before they were placed in the
12 police office locked cabinet?

13 A When we were able to, which was, if
14 I can recall correctly, frequently.

15 Q In other words, your answer is, yes?

16 THE COURT: Were transcripts made in
17 both places?

18 THE WITNESS: There were times, yes.

19 Q If you can recall, how often was
20 that done?

21 A How often--

22 Q How often were transcripts made at
23 the school or at your office?

24 A As I said, to my knowledge, it was
25 infrequent that we were able to do the transcribing

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1
2 at the school, although there were times that it
3 was done. The number, I don't recall.

4 Q If I understand your testimony correct-
5 ly, correct me if I am wrong, after the tapes were
6 made, the original tapes were made, you would go
7 and pick up the tapes at the school and then you
8 would take them back to your office, sometimes, and
9 make transcripts and then you would take them and
10 place them in a locked cabinet; is that correct?

11 A I would take them back to my office
12 all the time.

13 Q Is that correct; yes or no.

14 A Your phrased the question unclear
15 to me.

16 Q Is it not a fact that you would go
17 to the school pick up the tapes, take them back
18 to your office, and sometimes make transcripts
19 from those tapes and then take them to the locked
20 storage cabinet?

21 A Yes, sir; that is correct.

22 Q So that you did not take those tapes
23 immediately and place them in the storage cabinet;
24 is that correct?

25 A That's correct.

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1
2 Q Now, when transcripts were made,
3 by the way, who made the transcripts that were
4 submitted to Justice Steuben for the Queens Wire
5 Tap; do you know?

6 A Not offhand, no.

7 MR. MCCARTHY: Judge, may I have
8 those marked for the purpose of the hearing?

9 MR. SCHALL: I think those are in-
10 cluded in the--I think they are already
11 included in the Government exhibit.

12 THE COURT: They are before me then.

13 MR. SCHALL: They would be included
14 in Exhibit 5.

15 Q I show you the transcripts of the
16 conversations as included in Government Exhibit 5,
17 and I will refer to them by date. I show you a
18 transcript dated March 27, 1974.

19 Can you tell me who made that tran-
20 script?

21 A Yes, sir, I did.

22 Q Do you recall now,--can you recall
23 where you made that transcript?

24 A No, sir.

25 Q And, if you can recall, was that

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1 transcript made from the primary or secondary tape?
2

3 A Primary tapes were never listened to.
4 There was just a tape recorder that recorded all
5 conversations. We could not hear the conversations
6 that were going on. The only recorder that we had
7 control over was the secondary machine and as soon
8 as the conversation was determined to be not of a
9 criminal nature, it would be shutoff.

10 Q I thought you said before in answer
11 to Mr. Schall's question, that the primary tape
12 was for the purpose of comparing it with the
13 secondary tape; is that correct?

14 A That was my understanding, in the
15 event that a particular tape is challenged, that
16 they have a comparison to compare all conversations
17 with the conversations that were recorded on the
18 secondary reel.

19 Now, we never listened to the primary
20 tapes.

21 Q Let me ask you a question; were you
22 there every time the tapes were remade, either
23 primary or secondary tapes?

24 A Primary tapes were never played.

25 Q Were you there every time the tape

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1
2 recordings of any type--I withdraw the question.

3 You said in questioning previously,
4 that there was a tape recorder and an additional
5 tape recorder in the school for listening to tape
6 recordings; isn't that correct?

7 A Yes, sir.

8 Q And is it your testimony, it is your
9 testimony, I believe, that transcripts were made at
10 the school; isn't that correct?

11 A Yes, sir.

12 Q And those transcripts, if any, would
13 have had to be made from the additional or third
14 tape recording; correct?

15 A Would have to be made, using the tape,
16 third tape recorder?

17 Q Yes.

18 A Yes, sir.

19 Q You certainly weren't present con-
20 tinuously at the school sight where the wire tap
21 was being undertaken; is that correct?

22 A Yes, sir.

23 Q As a matter of fact, some of the
24 other officers made transcripts of the conversations
25 also? You did not make all the transcripts?

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1
2 A Yes, sir.

3 Q And they made some of the transcripts
4 at the school; correct?

5 A Yes, sir.

6 Q So you don't know whether or not they
7 made a transcript from a primary or secondary tape
8 at all; is that correct?

9 That's correct.

10 MR. MCCARTHY: I have no other
11 questions, your Honor.

12 MR. RABIN: If I may; one question.

13 RECROSS EXAMINATION

14 BY MR. RABIN:

15 Q Officer, Commack, New York, is in
16 Suffolk County; is that correct?

17 A That's correct.

18 Q Officer, that was where your plant
19 was; is that correct?

20 A Yes, sir.

21 Q That is where the phone you were
22 tapping was; is that correct?

23 A That's correct, yes, sir.

24 THE COURT: Do you know where the
25 tapes were kept after they were sealed?

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THE WITNESS: The District Attorney's office, your Honor, has a storage room that they maintained just for tape recordings for all wire taps that either the District Attorney's office or police department carries out.

THE COURT: All right, Sergeant, thank you very much. You may step down.

Mr. Schall, are you ready to get started? Before we get started, we will give the Court Reporter a breather; all right?

MR. SCHALL: Fine.

(Whereupon, a short recess was taken and the hearing resumed)

THE COURT: Are you ready to proceed, Mr. Schall?

MR. SCHALL: Yes. I would specifically say, at the outset, with respect to the question of sealing on the Nassau Wire Tap, I am prepared to argue, at this moment, that whether or not there was a timely sealing of the Nassau Wire Tap, it in no way affects the admissability of the Queens Wire Tap.

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1 office now, that they are available, should
2 their testimony be sought on that point.

3 I think probably the next point to
4 turn to, is the question of sealing, under
5 the sealing of the tapes, under the Nassau
6 Wire Tap. Mr. McCarthy urges, in his papers,
7 that the Queens Wire Tap should be expressed
8 because there wasn't a proper filing and
9 sealing of the Nassau Tap. Your Honor, I
10 would assume, as I understand the law on this
11 point, that if there is a wire tap or the
12 government seeks to offer conversations from
13 that wire tap into evidence and there has
14 been a delay in the sealing which is unex-
15 plained or unreasonable, then the government
16 under the Gigante Decision would be fore-
17 closed from using those conversations.

18 I will, for the purpose of the legal
19 argument on this point, go on the assumption
20 so it can be resolved that the delay here
21 hasn't been explained and that we won't be
22 able to show it was a reasonable delay. Hav-
23 ing stated that, I would state that if were
24 the situation where we had received those
25 conversations and were seeking to offer them

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3 pages

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X

In the Matter of the Application of

EDWARD MARGOLIN

Acting District Attorney of the County
of Nassau

for an

Order authorizing the interception,
monitoring and recording of certain tele-
phonic communications made by and to
MYRON RONNIE SCHWELL also known as
RONNIE SCHWELL over the telephone instru-
ments bearing the telephone identification
numbers 516 864-7421 and 516 864-7581.

-----X

Upon the petition of EDWARD MARGOLIN, Acting District
Attorney of Nassau County, State of New York, and the sworn
affidavit of ROBERT MADONIA, a Detective assigned to the Auto
Squad of the Nassau County Police Department, there is reasonable
cause to believe that evidence of crimes may be obtained by inter-
cepting telephone communications being transmitted over the
telephone instruments bearing telephone identification numbers
516 864-7421 and 516 864-7581 located at 15 Cedarwood Lane,
Commack, New York, it is

ORDERED, that under and pursuant to §802, Part I
of Title 18, United States Code, as amended by Chapter 119,
§25-10, et seq. of the Public Law 90-351, and any laws and
statutes relating thereto, and under and pursuant to the pro-
visions of the Constitution of the State of New York, Title 3,
§§700.05-700.70 of the Criminal Procedure Law of the State of
New York and laws and statutes of the State of New York as
amended relating thereto, the Acting District Attorney of the
County of Nassau be, and he hereby is, authorized and empowered
to intercept, monitor and record telephonic communications in

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F.A.
JSC

which MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL discusses with others at this time unknown, all details relating to crimes involving violations of Sections 155.35, 165.05, 165.40, 165.45, 165.50, 170.65, 170.70, 105.05 and 110.00 of the Penal Law of the State of New York to wit: Grand Larceny Second Degree, ~~Unauthorized Use of a Motor Vehicle~~; Criminal Possession of ~~Stolen Property Third Degree~~, Criminal Possession of Stolen Property Second Degree, Criminal Possession of Stolen Property First Degree, ~~Forgery of Vehicle Identification Numbers~~, ~~Illegal Possession of a Motor Vehicle Identification Number Plate~~, Conspiracy Third Degree and specifically conversations in which the aforesaid MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL discusses with others unknown at this time the theft of automobiles and the disposition of such stolen automobiles, the admission of the perpetration of such thefts and the identity of others unknown who are or who may be accomplices or co-conspirators in any of the foregoing crimes; the preparation for and plans of similar type crimes to be committed in the future; all of which relate to crimes already reported to police authorities and other crimes still under investigation for which no arrests or charges have been made, and it is further

ORDERED, that the aforesaid Acting District Attorney and any and all police officers employed under his supervision and control, be, and they hereby are, authorized to intercept, monitor and record said conversations as soon as practicable in such a manner as to minimize the interception of communications not otherwise subject to this eavesdropping order during the day-time and nighttime hours over the telephone instruments bearing telephone identification numbers 516 854-7421 and 516 864-7581, located at 15 Cedarwood Lane, Commack, New York, and such authorization to intercept, monitor and record telephone conversations shall not terminate upon the acquisition of one criminal

conversation but must terminate upon the attainment of the authorized objective of this order, or in any event in thirty (30) days from March 18, 1974, the effective period of this order, and it is further

ORDERED, that the aforesaid Acting District Attorney and any and all police officers so employed and under said supervision and control be, and they hereby are, authorized and empowered to make secret entry upon a private place or premises to install an eavesdropping device, if such entry is necessary to execute this warrant, and to cut, break, take and make connection with any and all lines leading to and from the said telephone instruments and to do all things lawfully necessary to permit the communications being transmitted over the said telephone instruments to be intercepted under and pursuant to the provisions of this order, and to record, on recording tapes, the intercepted conversations of the said MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and others, over the telephone instruments bearing the telephone identification numbers 516 864-7421 and 516 864-7581 or by whatsoever numbers the said telephone instruments and telephone lines may be hereafter designated within the premises located at 15 Cedarwood Lane, Commack, Suffolk County, New York, and it is further

JSC

ORDERED, that this order shall be effective and remain in full force and effect from the 18th day of March, 1974 and shall terminate upon attainment of the authorized objective and not later than the 16th day of April, 1974, inclusive, and immediately upon the expiration of the time period set forth in this order, the recordings of official communications made pursuant to this order shall be made available to this Court; and it is further

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ORDERED, that said interception shall be executed
as soon as practicable and shall be conducted in such a manner
as to minimize the interception of communications not otherwise
subject to eavesdropping.

Dated: Mineola, New York
March 14th, 1974
15th,

5/ FRANK V. ALTAMIRI
Supreme Court Justice

termination
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
In the Matter of the Application of

EDWARD MARGOLIN

Acting District Attorney of the County
of Nassau

for an

Order authorizing the interception,
monitoring and recording of certain tele-
phonic communications made by and to
MYRON RONNIE SCHNELL also known as
RONNIE SCHNELL over the telephone instru-
ments bearing the telephone identification
numbers 516 864-7421 and 516 864-7581.

-----X
STATE OF NEW YORK)
 : ss.:
COUNTY OF NASSAU)

EDWARD MARGOLIN, being duly sworn, deposes and says:

That I am the acting District Attorney of the County
of Nassau, State of New York, and make this application for an
eavesdropping warrant authorizing the mechanical overhearing of
conversations as defined in Article 250 of the Penal Law of the
State of New York and as authorized by Article 700 of the Criminal
Procedure Law of the State of New York, made by and to MYRON
RONNIE SCHNELL a/k/a RONNIE SCHNELL and others unknown at the
dwelling house located at 15 Cedarwood Lane, Commack, New York.

That WILLIAM CAHN, the District Attorney of Nassau
County is outside of the State of New York at this time and,
accordingly, the authority and power of the District Attorney
devolves upon your deponent by law to wit: Section 702 of the
County Law of the State of New York.

That I have been informed and have reason to believe
that crimes involving violations of Sections 155.35, 165.05,
165.40, 165.45, 165.50, 170.65, 170.70, 105.05 and 110.00 of the

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Penal Law of the State of New York to wit: Grand Larceny Second Degree, Unauthorized Use of a Motor Vehicle, Criminal Possession of Stolen Property Third Degree, Criminal Possession of Stolen Property Second Degree, Criminal Possession of Stolen Property First Degree, Forgery of Vehicle Identification Numbers, Illegal Possession of a Motor Vehicle Identification Number Plate, Conspiracy Third Degree, any felonies and any and all conspiracies to commit said crimes or an attempt to commit any felony, have been committed within the County of Nassau, partly within the County of Nassau and elsewhere and, further, that there is reasonable cause to believe that information and evidence in connection therewith will be obtained by the mechanical over-hearing of conversations by and to MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and others at this time unknown at the dwelling house of MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL located at 15 Cedarwood Lane, Commack, New York.

That my reasonable cause for belief, as stated above, is predicated and based upon the annexed affidavit of ROBERT MADONIA, a Detective in the Nassau County Police Department and assigned to the Auto Squad, which affidavit is annexed hereto and made a part hereof. As is indicated in Det. Madonia's affidavit, he is a veteran of 13 years with the Nassau County Police Department, one and one-half years of which have been spent on assignment to the Auto Squad.

That according to the information supplied to your petitioner in the annexed affidavit, it is apparent that there is reasonable cause to believe that MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and others unknown are involved in the various degrees of Grand Larceny, Criminal Possession of Stolen Property, Unauthorized use of Motor Vehicles, Forgery of Vehicle Identification Numbers, Illegal Possession of Vehicle Identification

Number Plates and Conspiracy and possess knowledge concerning all or any part of same committed in Nassau County, partly in Nassau County and elsewhere. It appears from the affidavit of Detective Madonia that during the course of his investigations of automobile thefts in Nassau County, more particularly in the Woodbury area in and about the vicinity of the Fairhaven Apartments, that the subject of this order and application MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL is involved in the thefts of these automobiles.

That annexed to the affidavit of Detective Madonia is a statement made by one PAUL ARBE who was apprehended driving a stolen car on March 6, 1974 and that statement indicates that PAUL ARBE stole a car at the request of MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL for a promised payment of TWO HUNDRED FIFTY (\$250.00) DOLLARS. The statement further reveals that arrangements for the theft of this automobile by Arbe were made via the use of telephonic communications. That the automobile in question was stolen by PAUL ARBE on March 6, 1974 at Glen Head in the County of Nassau.

That further, it reasonably appears that normal investigation procedures would be of no further value in learning the identity of the persons to whom these stolen automobiles are disposed of and other persons who might be engaged in stealing automobiles at the request of MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL which information is of vital importance to the successful completion of this investigation. That the affidavit of ROBERT MADONIA also reveals the presence at the premises of MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL as well as other associates of his, of automobiles which are either unregistered or of which the ownership cannot be verified as well as sections of dismantled automobiles.

That based upon the aforesaid affidavit, it appears that operations and criminal activities concerning the aforesaid

MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and persons known and unknown are of an extensive nature covering the greater part of Nassau County and perhaps extending beyond the County lines which involve not only the aforesaid SCHNELL but other persons unknown who are involved with the perpetration of the aforesaid crimes or may be considered co-conspirators or accomplices therein. In view of all the foregoing and in view of the information supplied in the annexed affidavit of Detective Robert Madonia, your deponent verily believes that there is probable cause to believe that the above designated offenses have been, are being and may continue to be committed.

Moreover, based upon the aforesaid annexed affidavit, the conversations to be described hereinafter and sought to be seized by means of mechanical or electronic interception of telephone communications are to be made upon the telephone instruments bearing telephone identification numbers 516 864-7421 and 516 864-7581 subscribed to by MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL located within the premises known as 15 Cedarwood Lane, Commack, Suffolk County, New York. The telephonic communications sought to be intercepted, monitored and recorded are those in which said MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and others unknown discuss with others unknown at this time the theft of automobiles and the disposition of such stolen automobiles, the admission of the perpetration of such thefts and the identity of others unknown who are or may be accomplices in the theft of the automobiles and who are or may be accomplices in the disposition of such automobiles or who are or may be the sources to which such stolen automobiles are disposed of; all of which relate to crimes already reported to the Nassau County Police authorities and other crimes still under investigation for which no arrests or charges have been made which relate to the crimes of Grand Larceny Second Degree, Unauthorized Use of a Motor Vehicle, Criminal Possession of Stolen Property Third Degree, Criminal

Possession of Stolen Property Second Degree, Criminal Possession of Stolen Property First Degree, Forgery of Vehicle Identification Numbers, Illegal Possession of a Motor Vehicle Identification Number Plate, Conspiracy Third Degree, and attempts to commit any of the foregoing crimes in violation of Article 110 of the Penal Law, and conversations where plans to commit the specified crimes in the future are discussed.

That the said conversations sought are not otherwise legally privileged according to said affidavit.

That your deponent respectfully requests that the eavesdropping warrant sought herein be effective for a period of thirty (30) days and shall not terminate upon the acquisition of one criminal conversation because of the nature of the investigation, as is set forth in Detective Madonia's affidavit which involves numerous stolen automobiles, which have been stolen from numerous different locations in and about the County of Nassau and others which have not been identified or traced to date as well as the necessity to determine the manner and to whom these stolen automobiles are disposed of.

In addition, a premature termination upon the seizure of one criminal conversation would very possibly foreclose the possibility of learning the identities of any and all other co-conspirators or accomplices and might prevent the acquisition of any admissions with respect to the commission of the many crimes depicted in Detective Madonia's affidavit.

I respectfully request that the Court direct that the mechanical execution of the order for the interception of communications be made by the Acting District Attorney of the County of Nassau, State of New York, and any and all police officers employed by or under the supervision and control of the District Attorney's office of Nassau County.

No previous application for the interception and recordings of telephone conversations by and to MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL or other persons unknown over the aforesaid telephone identification numbers has been made in this or any court or to any judge, justice or magistrate.

WHEREFORE, your petitioner prays that an order be made herein under and pursuant to the provisions of Section 802, Part I of Title 18, United States Code, as amended by Chapter 119, Section 25.10 et seq. of Public Law 90-351, and the laws and statutes relating thereto, under and pursuant to the provisions of the Constitution of the State of New York, Title 3, §§700.05-700.70 of the Criminal Procedure Law of the State of New York relating thereto, and the laws and statutes of the State of New York relating thereto authorizing and empowering your petitioner as Acting District Attorney of the County of Nassau, State of New York, and any and all police officers employed under the supervision and control of the District Attorney of Nassau County, to intercept and record all telephone communications made by and to the said MYRON RONNIE SCHNELL a/k/a RONNIE SCHNELL and other persons unknown, over the telephone instruments bearing telephone identification numbers 516 864-7421 and 516 864-7581 located at 15 Cedarwood Lane, Commack, New York, and that such order in the form annexed authorizes said police officers to take such action as may be deemed lawfully necessary to intercept and record the conversations sought, and that such order and authorization be effective and in force from the 18th day of March, 1974 up to and including the 16th day of April, 1974.

Sworn to before me this
14 th day of March, 1974.

[Signature]
Judy L. Martin

[Signature]
EDWARD MARGOLIN
NOTARY PUBLIC
State of New York
Commack, New York
Total Copies Made 12 11 4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
In the Matter of the Application of

EDWARD MARGOLIN,

Acting District Attorney of the County of
Nassau,

For an order authorizing the interception,
monitoring and recording of certain
telephonic communications made by and to
MYRON RONNIE SCHNELL, also known as
RONNIE SCHNELL, over telephone instruments
bearing the telephone identification numbers
516 864-7421 and 516 864-7581.

-----X
STATE OF NEW YORK)
COUNTY OF NASSAU) : SS.:

ROBERT MADONIA, being duly sworn, deposes and says:

That he is a detective of the Nassau County Police
Department assigned to the Auto Squad. That your deponent has
been a member of the Nassau County Police Department for thirteen
years and for the past year and one-half has been assigned to the
Auto Squad, with the specific duty of investigating auto thefts.
During this period of time your deponent has become familiar with
the methods of operations of persons engaged in the thefts of
automobiles and the disposal of stolen automobiles.

That on November 12, 1973 it became apparent to the
members of the Nassau County Police Department Auto Squad that
in the Jericho-Woodbury area an unusually large number of the
same type of automobiles, i.e., Chevrolet Corvette sports cars,
had been stolen. As a result of this discovery your deponent
and Detective James Cooper were assigned to investigate the
situation.

That on December 6, 1973 a more detailed check of the
records of the Auto Squad and the Second Precinct revealed that

up to and including November 12, 1973. (the date that the investigation commenced), a total of fourteen Chevrolet Corvettes and other sports cars had been in fact stolen in the Jericho-Woodbury area, and more particularly from the vicinity of the Fair Haven Apartments, Woodbury, New York.

That on December 14, 1973 your deponent examined field interview cards filed in the Second Precinct of the Nassau County Police Department, Woodbury, New York. (Field interview cards are informational records filled out by police officers who, in the course of their duties, come upon incidents or persons which they investigate because of suspicions of unlawful activities, but which in fact do not result in arrests for the reason that there is no unlawful activity or for lack of evidence.) These field interview cards which were examined by your deponent dating back to January 1, 1973, indicated four individuals who had been stopped by police officers R. Tonore, Shield No. 1987 and R. Ball, Shield No. 121, both of the Nassau County Police Department on the dates of June 5, 1973 and October 30, 1973, in the Jericho-Woodbury area of Nassau County.

These individuals were Joel Grant, age 27, of 12 Cypress Place, Melville, New York, James North, age 30, of the same address, Myron Ronnie Schnell, age 30, of 15 Cedarwood Lane, Commack, New York, and Anthony Piscicotto, age 26, of 18 Loring Road, Levittown, New York. These individuals were stopped and questioned by the officers due to seemingly suspicious activities, namely, they were in automobiles and driving slowly past and seemingly examining late-model automobiles. Joel Grant and Anthony Piscicotto were stopped on June 5, 1973. Joel Grant, James North and Myron Ronnie Schnell were stopped on October 30, 1973 by the officers.

On the October 30th date Grant, North and Schnell

were found to have in their possession an automobile key making device when they were stopped after having been observed passing slowly by and examining late-model automobiles. That at that time, no arrest was made inasmuch as the device was found to be lacking a material part necessary to its operation and therefore was not functional. During the time from October 30, 1973 up to the present time the thefts of late-model sports cars are and have been continuing from the vicinity of the Fair Haven Apartments, Woodbury, New York.

That subsequent to December 14, 1973, when the field interview cards were examined and the names of Joel Grant, James North, Myron Ronnie Schnell and Anthony Piscicotto became known to your deponent, a surveillance of the subjects was begun by your deponent and Detective James Cooper. During the course of these surveillances the residences of the four individuals were placed under surveillance. At the residence of Myron Ronnie Schnell, 15 Cedarwood Lane, Commack, New York, a two-story detached colonial-type residence with a brick front, the following was observed: a 1969 blue Chevrolet Corvette parked in the driveway, partially covered by a blanket over the rear half of the automobile. This automobile bore no registration plates, and a check of the Department of Motor Vehicles records revealed no such automobile registered in the name of Myron Ronnie Schnell nor to Judith Schnell, his wife, the only other person known to be living at that address. The foregoing observation was made on March 8, 1974.

On March 11, 1974 a second observation of the premises was made by your deponent. The aforementioned blue Corvette was still in the driveway and an additional car was seen--a 1965 Plymouth blue convertible, registration plate

number 139 RSQ. The aforementioned registration plates are the subject of Alarm No. 84358/1973 of the 109th Precinct of the New York City Police Department, which alarm states that these registration plates were stolen from a 1968 red Ford sedan, which car had at the same time been reported stolen on December 29, 1973, and as of this date has not yet been recovered.

That a further check of the New York State Motor Vehicle Bureau records reveals no automobiles of any make or nature registered either to Myron Ronnie Schnell or his wife, Judith Schnell.

That observations of Schnell's home prior to the above mentioned dates, during the months of January and February, 1974, revealed the 1965 blue Plymouth convertible, and the 1969 blue Chevrolet Corvette had also been there. That the Corvette still bore no registration plates and there was no indication that Schnell owned such an automobile and that at that time the registration of the Plymouth convertible, 139 RSQ, was checked and was found to be registered to Homes By Shore, Ltd., 977 Glen Cove Avenue, Glen Head, New York, but that there had been no report of any theft discovered until March 11, 1974, when the license plate was checked independently for a report of loss.

That during the months of January and February, 1974 your deponent and Detective Cooper observed the residence of Joel Grant and James North at 12 Cypress Place, Melville, New York, a two-story Cape Code style house with a detached three-car garage. At that time in the garage, which was open, your deponent observed three motorcycles and what appeared to be a section of a dismantled vehicle of undetermined make, as well as an automobile engine and a quantity of automobile tires, along with a large number of tools. That at various times during these two months a total of four private automobiles were seen

in the driveway of the house. The license plate numbers of these four vehicles were taken down and checked, and none were found to be reported as either stolen vehicles or stolen license plates, except that one such automobile was found to be registered to a Deborah Parisi, who also lives at that address with Grant and North, as well as an automobile found to be registered to James North. A further check of Motor Vehicle Bureau records revealed no motor vehicles registered to the other occupant of the house, Joel Grant. The date of the last such observation was on March 11, 1974.

That during the months of January, February and March, 1974, your deponent and Detective Cooper observed the home of Anthony Piscicotto at 18 Loring Road, Levittown, New York, which is a Levitt Cape Cod style house, which has been expanded and is typical of many homes in the area. There is located to the rear of this dwelling a two-car garage. At various times during these observations a minimum of four, to a maximum of six late-model unregistered vehicles were seen in the driveway to the rear of the house, just outside of the garage. Some of these vehicles were up on blocks, one of which had no tires or wheels, and others were partially dismantled. The last observation of such premises was on March 11, 1974.

That during the course of your deponent's investigations and observations of the subjects, nothing more concrete than as heretofore set forth in this affidavit was developed that would tend to show that the subjects, Schnell, Grant, North and Piscicotto, were involved in the theft and/or disposition of stolen vehicles.

That further observations and surveillance of the subjects, in your deponent's opinion based on his experience, would reveal nothing more than has already been determined,

except, perhaps, if they had actually been apprehended while in possession of a stolen vehicle. It is your deponent's experience that this would in all probability be a very remote possibility as normally people engaged in the activity of stealing and disposing of stolen vehicles dispose of them generally before the thefts are reported to the police and that it would be an extremely fortuitous circumstance if these people were caught in possession of a stolen car. Further, there is the unresolved question which is of equal importance in matters of this nature, which question is, how and to whom the subjects dispose of the stolen vehicles, as it is the theory of the Nassau County Police Department that merely apprehending the thieves is not sufficient to put a complete stop to the business of stealing automobiles.

That on March 6, 1974 police officers J. Tills, Shield No. 2039, and S. Wahl, Shield No. 1884, of the Nassau County Police Department Crime Prevention Unit, while on patrol in the Sixth Precinct, Nassau County, apprehended one Paul Arbe in a stolen 1973 Chevrolet Corvette sports car. The officers stopped Arbe because of the fact that while on patrol they saw him stealing the car. Paul Arbe, 26 years of age, residing at 2306 Roosevelt Avenue, East Meadow, New York, at the time of his arrest by Officers Wahl and Tills, indicated a willingness to assist the Auto Squad and was thereafter interviewed by your deponent on March 6, 1974.

That interview revealed that Arbe, on March 5th, the day before his arrest, was contacted by a friend of his, Ronnie Schnell, by telephone. It was known prior to this telephone call by Arbe that Schnell was in the business of dealing in stolen cars. During the course of the March 5th telephone call Schnell told Arbe that there is money to be made and that he, Arbe, could make \$250 by stealing a 1973 Chevrolet Corvette from Glen Head,

the car in which Arbe was apprehended. Schnell then went to Arbe's home and gave him an ignition key to said Corvette. Arbe also told your deponent that Schnell had informed him on previous occasions that he has a keymaker and can make a key for almost any car. A copy of a signed statement of Paul Arbe which was given voluntarily by Arbe to your deponent on March 6, 1974 is annexed hereto and made a part hereof. This statement reveals a full knowledge by Arbe of Schnell's activities and specific details that Schnell had been involved in stealing cars from the Fair Haven Apartments in Woodbury and that there were additional cars in the area that he, Schnell, would like to steal. The statement further shows that there had been telephone conversations with Schnell concerning the theft of automobiles and the theft of credit cars.

That on the following day, March 7, 1974, Paul Arbe made an additional statement to your deponent, a copy of which is annexed hereto and made a part hereof, revealing that he had called Schnell at his home, using telephone number 864-7421, and that Schnell was not at home, but he left a message for him, and that later that evening Schnell returned his call and there was additional discussion about stealing automobiles from the Fair Haven Apartments in Woodbury. In the first statement of March 6, 1974 Arbe gave your deponent this particular telephone number, 864-7421, which a check of the telephone company records reveals is listed to Ronnie Schnell, as well as an additional number, 864-7581, which is an unlisted telephone and which telephone number was given to Arbe by Schnell, who indicated that this was also at his residence. A check of the New York Telephone Company records indicates that the second telephone number, while unlisted, is in fact located at Schnell's residence at 15 Cedarwood Lane, Commack, New York, and that the bills therefor are paid by Ronnie Schnell.

That Paul Arbe has told your deponent that on March 10, 1974 Ronnie Schnell was present at the home of Paul Arbe and he, Schnell, told Arbe that they had just stolen a 1972 yellow Volkswagen sedan the night before, that is, Saturday, March 9th. Your deponent has checked the Auto Squad records for March 9th, and it has been revealed that a 1972 yellow Volkswagen sedan was stolen in the Hempstead area on that date. Additionally, Schnell told Arbe he had just come into possession of ten credit cards which had been stolen from a United States Post Office--just which post office is unknown at this time, although Schnell indicated that he has a friend who works in a post office, who steals these credit cards in the mail.

That in your deponent's further investigation with the New York City Police Department, it was revealed that Myron Ronnie Schnell, also known as Ronnie Schnell, was arrested by that Department in 1972 and charged with the crimes of grand larceny, auto; unauthorized use of an automobile; possession of an altered vehicle identification number plate; and that said Myron Ronnie Schnell was arrested by the New York City Police Department on July 20, 1973, charged with possession of an altered vehicle identification number plate.

That in your deponent's opinion, any further normal investigative procedures such as surveillance of the subject personally and/or his home, would be unlikely to succeed in securing the information and/or evidence being sought, to wit, the manner and place whereby the stolen vehicles are being disposed of by the subjects. It is felt that this is so inasmuch as the four subjects have been under investigation and surveillance since January, 1974, up until the present time and that no

concrete information or evidence was developed until the fortuitous apprehension of Paul Arbe. It is doubtful whether much more information will be obtained from Paul Arbe inasmuch as his arrest on the night of March 6, 1974 may soon become known to the subjects and they might tend to cease dealing or conversing with him for fear that he would be under surveillance and investigation. Further, the information obtained from Arbe to date reveals that Schnell does use the telephone in the conducting of his business and that he will in all probability continue to do so, as has been his past custom.

That it reasonably appears that the conversations sought to be seized, i.e., those by and to Myron Ronnie Schnell whereby he discusses the theft and/or disposal of stolen automobiles, would not be or include those not otherwise legally privileged. Your deponent respectfully requests that the eavesdrop warrant sought herein be effective for a period of thirty days and shall not terminate upon the acquisition of one criminal conversation because of the complex nature of the investigation, which involves multiple automobile thefts from multiple locations and which stolen automobiles are, in your deponent's experience, disposed of through multiple sources rather than through one single source, which sources have not as yet been identified or traced, and which in all probability could not be traced by normal investigative means.

That in addition, a premature termination upon the seizure of one criminal conversation would very possibly foreclose the learning by your deponent or his associates of the identities of all of the persons to whom Schnell is disposing of stolen cars.

In view of the nature of the crimes committed and reported to the police, your deponent has ascertained that some have been committed during the daytime and others during the nighttime, and it would reasonably appear to your deponent that

the perpetrator or perpetrators of these crimes, of necessity and also from the direct statement of Paul Arbe, have been in telephonic communication. In this connection it should be noted that both statements of Paul Arbe, annexed hereto, indicate that he has discussed the theft of automobiles with Ronnie Schnell over the telephone and indicates that he has used the telephone listed to Ronnie Schnell at his residence.

Based on the foregoing and based upon your deponent's experience, it would appear that telephonic communications between the aforesaid parties, known and unknown, could occur at any time during the day or night.

That no prior application for an eavesdropping warrant involving any of the same persons, places or telephones specified in this application has been made by your deponent or is known to your deponent to have been made to any other judge, justice, magistrate or court.

WHEREFORE, it is respectfully requested that the court issue an order or warrant authorizing the interception, monitoring, or recording of the aforesaid telephonic communications made by and to said Myron Ronnie Schnell, also known as Ronnie Schnell and other persons unknown, over the telephone instruments bearing the telephone identification numbers 516 864-7421 and 516 864-7581.

S/
Robert Madonia

Sworn to before me this
14th day of March, 1974.

S/ FRANK V. ALTAMARI
J.S.C.

BEST COPY AVAILABLE

STATEMENT OF PAUL ARBE

MARCH 6, 1974
A/S 850-74
DD 6-780-74

My name is PAUL ARBE, I am 26 years of age having been born 9/9/48, reside at 2306 Roosevelt Avenue, East Meadow, New York alone. My Social Security number is 093-38-0210. My home phone number is 579-7191. I am presently employed by Donno Company as a refuse collector.

I have been informed by Detective MADONIA that I have the right to remain silent, that any statement I do make may be used against me in court. That I am entitled to talk with a Lawyer before answering any questions and to have a Lawyer present at any time. Further, that if I cannot afford to hire a lawyer, one will be furnished me and I have the right to keep silent until I have had the chance to talk with a lawyer.

I understand my rights and make the following statement freely and voluntarily. I am willing to give this statement without talking with a lawyer or having one present.

Read and understood by me

Paul Arbe

Paul Arbe

On Tuesday, March 5, 1974 at approximately four pm, I received a telephone call from a friend of mine named RONNIE SCHNELL who lives in Huntington, New York. I don't know his address but his phone number is 804-7421 and 804-7581. Ronnie is in the business of dealing in stolen cars. During this conversation, Ronnie told me that "there is money to be made," that I could make myself \$250.00 by stealing a 1973 Chevrolet Corvette in Glen Head that he and I had spoken about at the beginning of the week. Ronnie then told me that he would come over to my home on Roosevelt Avenue later on and give me a ignition key for the Corvette. Ronnie has told me on several occasions that he has a key maker that he can use for making a key for almost any car so you don't have to bother with crossing any wires. I told him ok, and made arrangements to meet him later on. Sometime around seven pm I met Ronnie Schnell at my home where he gave me a key for the Corvette that I was to steal and a lock cylinder that he used to make the key.

Det. Madonia Paul Arbe

Paul Arbe

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CONTINUED STATEMENT OF PAUL ABRAHAM

MARCH 6, 1974
A/S 850-74
DD 6-780-74

with. I hitched a ride up to where the Corvette was in Glen Head and using the key Ronnie Schnell gave me got in the car, started it up and drove away. As I recall, the Chevrolet Corvette was parked in front of number 12 Knoll Lane in Glen Head and was a coupe, green in color. My instructions from Ronnie were to drive this car to the Meadowbrook Parkway and leave it parked on the side of the roadway just south of Old Country Road in Westbury. I had only driven about two miles when a Police Officer in a car pulled along side me and motioned me to the side of the road. When I stopped, I got out of the car and he put handcuffs on me telling me that I was under arrest.

I am now present at the office of the Automobile Squad at Police Headquarters in Mineola, New York and would like to tell of the circumstances surrounding my association with RONNIE SCHNELL.

I first met Ronnie during the latter part of August in 1973. At that time I owned a 1973 Chevrolet Van, orange and was driving in the vicinity of Huntington when Ronnie waved me down. At that time he was driving a 1973 Cadillac two door hard top color black. I pulled to the side of the road and Ronnie told me that he liked my van and noticed a for sale sign on the window. Ronnie told me that he was in the business and would help me sell my car. We talked for a short while and I gave him my telephone number then I left.

At that time, I began receiving telephone calls from Ronnie fairly regularly, about once every two weeks. He has also visited my home on numerous occasions mostly alone but sometimes accompanied by a male white identified as Grant from Melville, New York. During the course of the conversations with Ronnie Schnell on the telephone and personally, he has told me the key maker I described earlier in my statement as well as to keep an eye out for a particular auto that he was interested in at the time. I recall him asking about a 12 cylinder Jaguar, Lincoln and Corvettes. During the end of February while visiting my home, he told me that he had stolen a few cars from

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3.

CONTINUED STATEMENT OF PAUL ARLE

MARCH 6, 1974

A/S 850-74

DD 6-780-74

the Fairhaven apartments on Jericho Tpke., Woodbury he also named a few that he would like to get. Among them, he named a 1973 Chevrolet Corvette, blue and a new 1973 or 1974 white Mercedes Benz that he had seen parked up there a few times. I recall that during late February and early March in telephone conversations with Ronnie Schnell, he told me that he had some stolen credit cards that he had purchased from someone employed in a Post Office somewhere. He also told me that he was looking to steal a Lincoln Mark IV for his father but I don't know if he got one yet. I would say that of all the telephone calls Ronnie Schnell has made to me, 75% of the conversations had to do with stolen cars and stolen credit cards.

R. Madonia 3/6/74

R. Madonia

Det. R. Madonia

Sh. 12, Automobile Squad..

Signed

Paul Arle2306 Roosevelt Ave. E. Meadow579-7191

Paul Arle

2306 Roosevelt Ave., E. Meadow

579-7191

BEST COPY AVAILABLE

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STATEMENT OF PAUL ARBE

MARCH 7, 1974
A/S 850-74
DD 6-780-74

My name is PAUL ARBE, I am 26 years of age, having been born 9/9/47. I reside at 2306 Roosevelt Avenue, East Meadow, New York. My social security number is 093-38-0216. My home phone is 579-7191.

I have been informed by Detective MADONIA that I have the right to remain silent, that any statement I do make may be used against me in court. That I am entitled to talk with a lawyer before answering any questions or to have a lawyer present at any time. Further, that if I can't afford to hire a lawyer, one will be provided for me and I have the right to keep silent until I have had the chance^{of} to talk with a lawyer.

I understand my rights and make the following statement freely and voluntarily. I am willing to give this statement without talking with a lawyer or having one present.

Read and understood by me this date. *Paul Arbe 3-7-74*

Early yesterday, March 6, 1974, I gave a statement to Detective Madonia concerning my association with RONALD "RONNIE" SCHNELL, 15 Cedarwood Lane, Commack, New York and JOEL GRANT, Melville, New York and conversations I've had with the both of them about stealing cars. RONNIE and JOEL wanted me to steal a '73 Chevrolet Corvette from Glen Head, New York. which I did and was arrested for.

Yesterday, at about 6:00 pm I called RONNIE SCHNELL at his home phone 864-7421. He wasn't at home but a girl I assumed was his wife, told me that she would tell him to call me at my home.

At about 8:00 pm, Ronnie called me at my home. Ronnie asked me how I made out last night with the Chevrolet Corvette he wanted me to steal. I told him the car alarm went off and I didn't get it. Ronnie then told me that there is a blue 1973 Chevrolet Corvette that he had mentioned to me once before parked at the Fairhaven Apts., Woodbury, New York. I said o.k., when do you want it? He replied, I'll let you know. I wish to add, that I have no intention of stealing any car for anyone but told him that because I don't want any trouble with him or his friend JOEL GRANT. A short time later the conversation ended with RONNIE telling me that he would see me later.

At about 9:40pm RONNIE and JOEL were at my home. They again mentioned the blue '73 Corvette at Fairhaven Apts., and told me that they had seen it Wed., March 6, 1974 at 7:00 pm. RONNIE then told me that he and JOEL GRANT had to get a 1973 Lincoln Mark IV, and that they knew where there was a white one with red interior up in Roslyn, New York. They left my home at 6:50pm. I can't say if they went for the Lincoln Mark IV at that time or not.

Paul Arbe
2306 Roosevelt Ave 3/7/74
E. Meadow 579-7191

Paul Arbe
2306 Roosevelt Ave, E. Meadow
579-7191

3/7/74

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

EAVESDROPPING
WARRANT

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035, located at 83-11 149th
Avenue, County of Queens, New York.

It appearing from the affidavit of NICHOLAS FERRARO,
District Attorney of the County of Queens, sworn to the 26th
day of April 1974, and the accompanying affidavit of Luis
Gonzalez sworn to the 26th day of April 1974 and the accompanying
Affidavit of Detective Robert Madonia sworn to the 25th day of
April 1974, that there is probable cause to believe that Thomas Fury,
Joseph Destio, Mario Bonomo, Thomas Fiameta, Frank Saracena,
Leon Peters, Harold W. Dailey and other unknown and unidentified
people have committed, are committing and are about to commit
the crimes of Grand Larceny in the Third and Second Degrees;
Criminal Possession of Stolen Property in the First and Second
Degree; and Conspiracies to commit these crimes and it further

APPEARING that there is probable cause to believe
that particular conversations relating to the commission of and
concerning the above stated crimes will be obtained through
eavesdropping; and it further

APPEARING that there has been a showing that normal
investigative procedures have been tried and have failed and
reasonably appear to be unlikely to succeed if tried, and appear
to be too dangerous to employ; and it further

APPEARING that there is probable cause to believe that
the telephone instrument bearing the number 835-3035 listed in
the records of the New York Telephone Company in the name of
Thomas Fury, 83-11 149th Avenue, Queens, New York, is being

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used and will be used in connection with the commission of the above enumerated crimes by Thomas Fury, Joseph Destio, Mario Bonomo, Thomas Fiameta, Frank Saracena, Leon Peters and Harold W. Dailey and other unknown and as yet unidentified persons; it is hereby

ORDERED that the District Attorney of the County of Queens and his duly authorized agents from the Police Department of the City of New York be and are hereby authorized to cut, break, tap and make connections with wires leading to and from telephone instrument 835-3035 and to do all things necessary including authority to make secret entry upon private places or premises to install the eavesdropping device (if such entry is necessary to execute this warrant); it is further

ORDERED that the eavesdropping permitted under this warrant shall be for the conversations of Thomas Fury, Joseph Destio, Mario Bonomo, Thomas Fiameta, Frank Saracena, Leon Peters and Harold W. Dailey and other unidentified and unknown persons as such conversations relate and pertain to the commission of the crimes enumerated above, particularly conversations relating to the identities of other persons involved in the stated crimes; the location of the funds in furtherance of and generated by these illegal acts; the location of the stolen property used in furtherance of and in the commission of the stated crimes; the time and place of the transfer of said stolen property; and the premises and facilities used in furtherance of and the commission of the stated crimes; it is further

ORDERED that the execution of this warrant shall be as soon as practicable, to be effective on the 29th day of April 1974, and shall continue for a maximum period of 30 days to the 29th day of May 1974 for a period of 24 hours on each of the said days of authorized interception, and the authority to eavesdrop and intercept shall not automatically terminate upon the interception of the first described conversation; it is further

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ORDERED that interception shall be conducted in such a way as to minimize the interception of communications not otherwise subject to eavesdropping.

Thomas A. Lee

JUSTICE OF THE SUPREME COURT

Dated: Queens, New York
April 16 1974

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035, located at 83-11 149th
Avenue, County of Queens, New York.

APPLICATION

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

NICHOLAS FERRARO, being duly sworn, deposes and says:

1. I am the District Attorney of the County of Queens, authorized by law to make this application.

2. Deponent makes this application upon information and belief; the source of that information and belief is the attached affidavit of Detective Luis Gonzalez, of the Police Department of the City of New York, sworn to the 26th day of April 1974. Deponent incorporates that affidavit herein as if the same were set down fully.

3. Deponent has probable cause to believe that the crimes of Grand Larceny in the Third and Second Degrees; Criminal Possession of Stolen Property in the First and Second Degree; and Conspiracies to commit these crimes have been, are and will be committed.

4. Deponent has probable cause to believe that telephone instrument 835-3035, listed in the records of the New York Telephone Company in the name of Thomas Fury, 83-11 149th Avenue, County of Queens, New York, will be employed in the furtherance of these crimes.

5. Deponent has reasonable cause to believe that conversations relating to the methods and procedures used in

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theft of these vehicles, in alteration of numbers, in transit and sale of these vehicles and the identity of those people involved in said crimes will occur over telephone number 835-3035.

6. Deponent has probable cause to believe that Thomas Fury, Joseph Destio, Mario Bonomo, Thomas Fiameta, Frank Saracena, Leon Peters, Harold W. Dailey and other unknown individuals will employ said telephone instrument in furtherance and in the commission of the stated crimes.

7. The investigation to date has shown that the conversations sought to be intercepted are not legally privileged.

8. Deponent states that based upon Detective Gonzalez's affidavit, normal investigative techniques and procedures have been tried and have failed and reasonably appear unlikely to succeed if tried, and reasonably appear too dangerous to employ to obtain the evidence sought.

9. Deponent states that the facts establishing probable cause show that additional communications of the same type will occur after the interception of the first type of described conversation.

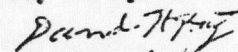
10. Deponent states that the purpose and aim of this warrant is to disclose to the fullest extent the identity of all these as yet unknown people involved in the commission of the stated crimes; the locations used in the furtherance of and commission of the stated crimes; the funds used in furtherance of and the commission of and generated by, the stated crimes; the location of stolen property used in furtherance of and the commission of the stated crimes; the time of any transfer thereof; and the location of premises and facilities used in the furtherance of and the commission of the stated crimes.

11. Deponent states that the effective date of this warrant shall be the 26th day of April 1974 and shall continue for a maximum period of 30 days until the 27th day of May 1974 or upon the complete attainment of the objectives of the warrant, whichever is shorter. Deponent requests that the authorized period of interception should be 24 hours a day since evidence reveals that the conspirators involved are committing the stated crimes and are involved in a complex, widespread conspiracy and use the telephone in furtherance thereof.

12. Deponent states that upon information and belief that there are no prior applications for an eavesdropping warrant involving any of the same persons, facilities or places specified in this application.


NICHOLAS FERRARO

Sworn to before me this
26th day of April 1974.


Donald H. Fay
Notary Public
43-20437-5
Qualified Richmond County
Commission Expires March 30, 1975

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035, located at 83-11 149th
Avenue, County of Queens, New York.

AFFIDAVIT

STATE OF NEW YORK)

SS:

COUNTY OF QUEENS)

LUIS GONZALEZ, being duly sworn deposes and says:

1. I am a Detective, Shield #64, assigned to the
Automobile Theft Squad, Zone B of the New York City Police
Department.

2. I and other members of the New York City Police
Department have been engaged in an investigation into the
activities of Thomas Fury, Joseph Destio, Mario Bonomo, Thomas
Fiameta, Frank Saracena, Leon Peters and Harold W. Dailey.

3. While engaged in that duty I and other members
of the New York City Police Department became aware that the
above named persons were engaged in the crimes of Grand Larceny
in the third and second degree and Criminal Possession of Stolen
Property in the First and Second Degree and Conspiracies to
commit these crimes.

4. Based upon information received from Detective
Robert Madonia of the Nassau County Police Department I ascertained
that the Eavesdropping Warrant which Detective Madonia refers to
in his affidavit was in existence. I incorporated Detective
Madonia's affidavit into my affidavit and made it part thereof.
The telephone calls discussed in Detective Madonia's affidavit
establish that the telephonic instrument referred to herein
bearing the number 835-3035 is being used in the commission of the
crimes mentioned above. I am also attaching transcripts of the
conversations referred to in Detective Madonia's affidavit and
making them a part hereof.

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5. Telephonic instrument number 835-3035 is registered in the records of the New York Telephone Company to Thomas Fury, 83-11 149th Avenue, Queens, New York.

6. It is anticipated by your deponent that should interception of telephonic communication be permitted over telephone number 835-3035 as subscribed to by Thomas Fury at 83-11 149th Avenue, Queens, New York and located at 83-11 149th Avenue, Queens, New York that based upon the above intercepted conversations that further conversations will be intercepted that indicate persons involved in the above mentioned Grand Larcenies and Criminal Possession of Stolen Property, location of automobiles involved and locations used to store and alter vehicles. It is further anticipated that the methods and procedures used in the theft of these vehicles, in alteration of numbers, in transit and sale of these vehicles will also be discovered through these methods.

7. Normal investigative techniques have been attempted in this case. Investigation herein commenced on April 2, 1974 and investigation was conducted on April 3, 4, 5, 9, 10, 11, 15, 16, 17, 19, 22, 23, and 24th. It is very difficult to "tail" the persons named herein because they are very careful and are constantly changing routes and acting in such a way as to locate surveillance vehicles. We have been able to ascertain that Thomas Fury goes often to an auto parts yard at E. 56th Street and Avenue D in Brooklyn, known as Bergen Auto Parts. This is a fenced in yard wherein the trailer that the "Goldbug" was placed is located. The "Goldbug" was an eavesdropping device placed by the Kings County District Attorney's Office Squad which allegedly obtained substantial information about criminal activities of Paul Vario and his associates. Therefore, the persons around this auto parts yard are very careful and very sensitive to Police surveillance.

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8. Thomas Fury has been arrested on five occasions for crimes related to automobiles including Grand Larceny of an automobile, Possession of Burglary Tools, Criminal Possession of Stolen Property and Unauthorized Use of Automobiles. Each of the other persons named herein have been arrested at least once for crimes involving stolen automobiles.

9. Based upon our investigation we have ascertained that the telephonic instrument herein is used 24 hours a day relative to the commission of the crimes above mentioned. For that reason we need a warrant to authorize eavesdropping 24 hours a day. I will minimize the conversations intercepted and discontinue interception as to any non-pertinent conversations.

P. S. Gonzalez

LUIS GONZALEZ

Sworn to before me this

16th day of April 1974.

David H. Hays
Notary Public

43-7043875

Qualified for Notary Public
Commission Expires March 30, 1975

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Detective Robert Madonia, being duly sworn deposes and says:

1. I am a Detective, shield # 12, with the Automobile Squad of the Nassau County Police Department.

2. March 14, 1974 the writer made application at Supreme Court, County of Nassau, Mineola, New York for an Eavesdropping Warrant. Application made through the efforts of A.D.A. Arthur Iverson, Law Department, County Court, Mineola, New York.

3. March 14, 1974 the writer appeared before Honorable Frank X. Altimeri, Supreme Court, whereby Judge Altimeri authorized the interception of telephone communications on the telephone numbers 516-864-7421 and 516-864-7581 registered to Myron Ronnie Schnell, 15 Cedarwood Lane, Comack, New York.

4. The subject matter of conversations sought are details relating to crimes involving violations of Sections 155.35, 165.05, 165.40, 165.45, 165.50, 170.66, 170.70, 105.05, and 110.00 of the Penal Law, State of New York.

5. Pursuant to the issuing of the above warrant on March 14, 1974, signed by the Honorable Frank X. Altimeri, the writer intercepted, recorded and transcribed conversations between Myron Ronnie Schnell, and the following:

a. Thomas Fury, 83-11 149 Avenue, Ozone Park
New York Telephone: 212-835-3035

b. Joseph Destio, 656 Jamaica Avenue, Brooklyn
New York Telephone: 212-784-3802

6. Through experience gained by assignment to the Automobile Squad, Nassau County Police Department, the writer interprets the following conversations:

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a. March 27, 1974, 0205 hours

Myron Ronnie Schnell to Joseph Destio. Joseph Destio wants Schnell to steal and deliver to him (Destio) an automobile manufactured by General Motors Corp., Chevrolet Division, whose engine size is designated as either a 397 or 427 cu. in. or a Chevrolet Camaro, model Z28.

b. March 28, 1974, 1840 hours

Joseph Destio to Myron Ronnie Schnell. Joseph Destio wants Schnell to steal and deliver to him (Destio) a 1970 Chevrolet chevelle that Destio needs for parts. This vehicle is to be delivered to Lincoln, Between Fulton and Atlantic Avenues. Brooklyn New York.

c. March 30, 1974, 1950 hours

Myron Ronnie Schnell to Thomas Fury. Thomas Fury wants Schnell to steal and deliver to him (Fury) a 1972 Pontiac Grand Prix with a good front and needed for parts in a dismantling and cutting operation directed by Fury and Destio. (Nassau County Alarm 9317, dated 4/1/74 indicating a 1972 Pontiac Grand Prix was in fact stolen from the 2 nd. Pct., Nassau County, New York.)

c. April 9, 1974, 2230 hours.

Myron Ronnie Schnell to Thomas Fury. Thomas Fury wants Schnell to steal and deliver a Chevrolet Vega. model. Cosworth. a high performance. limited production vehicle. Fury also indicates. he would like a prompt reply before his customer orders new parts.

Robert Madonia
Detective Robert Madonia

Sworn to before me this
25 day of April 1974.

William C. Allen
WILLIAM C. ALLEN
NOTARY PUBLIC, State of New York
No. 30-4501575
Qualified in Nassau County
Commission Expires March 20, 1976

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

ORDER EXTENDING
EAVESDROPPING
WARRANT

Upon reading the application of NICHOLAS FERRARO,
District Attorney of Queens County, sworn to the 28th day of
May 1974, made pursuant to the provisions of Section 700.40
of the Criminal Procedure Law, and upon reading the affidavit
of Luis Gonzalez sworn to the 28th day of May 1974 and upon
considering the additional testimony or documentary evidence
furnished by the applicant in support of the application, and
upon the examination, under oath, of Det. Luis Gonzalez, Shield
#64, recorded or summarized in support of said application, and
due deliberation having been had thereon,

NOW, on application of NICHOLAS FERRARO, District
Attorney of Queens County, State of New York, it is

ORDERED, that the persons whose communications are
to be intercepted shall be and the same hereby are identified
as follows:

THOMAS FURY, JOSEPH DESTIO, MARIO BONOMO, THOMAS FIAMETA,
FRANK SARACENA, LEON PETERS, HAROLD W. DAILEY and other unknown,
and it is further

ORDERED, that the nature and location of the
communication facilities as to which authority to intercept is
granted, shall be and the same hereby are as follows:

THOMAS FURY, 83-11 149th Avenue, Queens, New York; and
it is further

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ORDERED, that the type of communications sought to be intercepted are telephonic communications and shall be and the same hereby are particularly described as follows:

835-3035, located at 83-11 149th Avenue, Queens, N.Y. and the same relate to the particular designated offenses of Grand Larceny in the Third and Second Degrees, Criminal Possession of Stolen Property in the First and Second Degrees, and Conspiracies to commit these crimes; and it is further

ORDERED, that the law enforcement agency authorized to intercept the said communications shall be and the same hereby is identified as follows:

Members of the New York City Police Department; and it is further

ORDERED, that sufficient showing having been made in the application therefor, the extended period of eavesdropping authorized herein shall not and the same hereby is not to terminate when communications of the type particularly described herein are first obtained; and it is further

ORDERED, that this Order of Extension shall be executed as soon as practicable and on or before its date of effect designated herein; and it is further

ORDERED, that the period of extension deemed necessary to achieve the purposes for which the Eavesdropping Warrant is granted shall be and the same is hereby determined to be no longer than thirty (30) days; and it is further

ORDERED, that the authorization of the Eavesdropping Warrant herein shall be and the same hereby is extended for a period not longer than thirty (30) days from the date of expiration

A-100

- 3 -

therof on the 29th day of April 1974 until the 27th day of June 1974; and it is further

ORDERED, that notwithstanding the authorization to intercept for a designated period contained in this Order of Extension, such authorization shall terminate and the same is hereby terminated upon attaining the objective authorized herein.

James O. Baker
JUSTICE OF THE SUPREME COURT

5/25/74

A-101

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York.

APPLICATION
FOR
EXTENSION

STATE OF NEW YORK)

COUNTY OF QUEENS) SS:

NICHOLAS FERRARO, being duly sworn deposes and says:

I am the District Attorney of the County of Queens
State of New York, and the applicant herein.

I make this Application pursuant to the provisions
of Section 700.40 of the Criminal Procedure Law of the State of
New York for an order of extension of an Eavesdropping Warrant
issued on the 26th day of April 1974 by Mr. Justice Bernard
Dubin.

Attached hereto and made a part of this Application
with the same force and effect as if reiterated verbatim herein
are the following:

Warrant of Eavesdropping issued April 26, 1974.

Any allegations of fact, in addition to those set
forth in the Application for Eavesdropping Warrant and any previous
Application for Extension, contained in this application are based
upon information and belief. Facts derived in whole or in part
from the statements of persons other than the applicant are from
the following disclosed or described source:

DETECTIVE LUIS GONZALEZ, Shield #64, assigned to the,
Automobile Theft Squad, Zone B of the New York City Police
Department.

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Any limitation in the types of communications authorized to be intercepted under the Eavesdropping Warrant is as follows:

That the intercepted calls will be kept to a minimum and no non-pertinent call will be intercepted or recorded.

The facts establishing probable cause to believe, during the period of extension herein applied for, that the facilities from which or the place where, the communications are to be intercepted are being used in connection with the commission of said offenses, listed in the name of and commonly used by the persons whose communications are sought to be overheard are contained in the affidavit of DETECTIVE LUIS GONZALEZ.

The period of time for which the eavesdropping warrant is required to be extended is from the 29th day of May 1974 to the 27th day of June 1974.

The applicant knows of no facts, except those already set forth herein, concerning previous applications obtained for an Eavesdropping Warrant involving the same persons, facilities or places specified in this Application and the action taken by the Justice on each such Application.

WHEREFORE, the applicant prays that an Order be made and entered for the issuance of an Extension of the Eavesdropping Warrant as herein applied for in all respects.

NICHOLAS FERRARO
DISTRICT ATTORNEY
QUEENS COUNTY

Sworn to before me this

28th day of May 1974.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

-----X

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035, located at 83-11 149th
Avenue, County of Queens, New York.

AFFIDAVIT

-----X

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

LUIS GONZALEZ, being duly sworn deposes and says:

1. I am a Detective, Shield #64, assigned to the
Automobile Theft Squad, Zone B of the New York City Police
Department.

2. I and other members of the New York City Police
Department have been engaged in an investigation into the
activities of Thomas Fury, Joseph Destio, Mario Bonomo, Thomas
Fiameta, Frank Saracena, Leon Peters, and Harold W. Dailey.

3. On the 26th of April 1974 Mr. Justice Bernard Dubin
of the Supreme Court, State of New York, County of Queens,
signed an Eavesdropping Warrant allowing the interception of
conversations over telephonic instrument bearing the number
835-3035, located at 83-11 149th Avenue, County of Queens, N.Y.
That Order allowed interceptions of communications from 29th of
April 1974 extending through the 28th day of May 1974.

4. Pursuant to that Order conversations were inter-
cepted and certain conversations were recorded. Copies of those
conversations are attached hereto and made a part hereof. In
the first conversation there is a discussion of needing plates
which I interpret as needing license plates to transport stolen
vehicles. In the second conversation there is discussion relative
to one of the persons nicknamed "Sonny" being arrested for
possession of stolen truck. In the third conversation, two
individuals discuss stolen goods. The fourth conversation

A-104

regards obtaining clean registrations for stolen vehicles. The fifth conversation represents possession of stolen property. The sixth conversation is a cryptic conversation regarding setting up a meeting. The seventh conversation represents selling of stolen merchandise. The eighth conversation represents possession of stolen stereos. In my experience as a Police Officer each of these conversations represents the discussion of stolen property.

5. In addition to these conversations we have made observations of these premises and have observed Mr. Fury transporting what we believe to be stolen property. On these occasions Mr. Fury's wife stood outside as a look-out as he backed the car into his premises and furtively unloaded it.

6. That the intercepted calls will be kept to a minimum and no non-pertinent call will be intercepted or recorded.

7. As can be seen by the annexed conversations, such conversations are relevant to the possession of stolen goods and are contained almost on a daily basis. Therefore, it is requested that the Warrant permitting such interceptions not automatically terminate when the above-described conversations is first obtained. Considering the nature of the conspiracy and the manner and methods and codes used to relay information it is important that the interception of conversations not terminate after the first conversation concerning the crimes mentioned has been intercepted, but continue until the determination can be made of the identities of any and all participants in the illegal activity which is the subject matter of this Application

A-105

including their places of operation, their criminal associates and the identification of their source of supply.

8. The reason this Extension is sought is so that members of the Police Department can identify those persons as yet unidentified and referred to in Paragraph 2 of this Affidavit, the manner in which they distribute their stolen merchandise and the persons to whom distributed, places where the goods are stored.

9. None of the conversations sought to be intercepted are legally privileged.

10. The period for which the Eavesdropping Warrant is required to be extended is from the 29th day of May 1974 to the 27th day of June 1974.

11. It is further respectfully requested that the Warrant permitting such interceptions not automatically terminate when the above-described type of communication is first obtained.

12. To my knowledge, no previous application for the relief sought herein, has been made to any other Court or Judge.

L. P. Gonzalez
DETECTIVE LUIS GONZALEZ

Sworn to before me this
day of May 1974.

[Signature]
JAMES J. GUARANTZ
Notary Public, State of New York
Commission Expires 12/31/75

A-106

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application for amendment to the
eavesdropping warrant to overhear and
record certain communications over
telephone number 835-3035, located at
83-11 149th Avenue, County of Queens, N.Y.

AMENDMENT TO
EAVESDROPPING WARRANT

IT APPEARING from the Application of NICHOLAS FERRARO,
District Attorney of the County of Queens, sworn to the 11th day
of June 1974 and the accompanying affidavit of Detective Robert
Hall, sworn to the 7th day of June 1974 that there is probable
cause to believe that Thomas Fury, Joseph Destio, Mario Bonomo,
Thomas Fiameta, Frank Saracena, Leon Peters, Harold W. Dailey
and other unknown and unidentified persons have committed,
are committing and are about to commit the crimes of Criminal
Possession of Controlled Substance in the First Degree and
Criminal Sale of a Controlled Substance in the First Degree; and
it further

APPEARING that there is probable cause to believe that
telephone bearing the number 835-3035 is being used by these
persons to conduct conversations relating to the possession and
sale of a controlled substance; and it further

APPEARING that a certain communication, the substance of
which is set forth in the application of NICHOLAS FERRARO was
intercepted in the manner authorized by Article 700, Criminal
Procedure Law, pursuant to an eavesdropping warrant attached
hereto, issued on the 26th day of April and extended on the 29th
day of May 1974; and it further

APPEARING that said communication was not otherwise sought
under the said eavesdropping warrant; and it further

APPEARING that such communication does constitute evidence
of the crimes of Criminal Possession of a Controlled Substance in
the First Degree and Criminal Sale of a Controlled Substance in
the First Degree; it is

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- 2 -

ORDERED that the said eavesdropping warrant shall be and is hereby amended to include the crimes and communications hereinbefore described.

E N T E R

Amos Kelle

JUSTICE OF THE SUPREME COURT

Dated: Kew Gardens, New York
June 12, 1974

A-108

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application for amendment to the
eavesdropping warrant to overhear and
record certain communications over
telephone number 835-3035 located at
83-11 149th Avenue, County of Queens,
New York.

APPLICATION FOR
AMENDMENT

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

NICHOLAS FERRARO, being duly sworn, deposes and says:

1. I am the District Attorney of the County of Queens,
State of New York, authorized by law to make this application.

2. I make this application upon information and belief,
the source of that information and belief being Detective Robert
Hall, whose attached affidavit was sworn to the 7th day of June
1974. I incorporate that affidavit herein as if it were set
down fully.

3. I make this application pursuant to Section 700.65
of the Criminal Procedure Law, for issuance of an order amending
an eavesdropping warrant which on information and belief on the
26th day of April 1974 and extended on May 29, 1974, both issued
by Mr. Justice Bernard Dubin, said warrant being executed pursuant
to Article 700, Criminal Procedure Law.

4. On information and belief in the course of the execu-
tion of said warrant, two communications were intercepted, the
interception of which was not otherwise sought pursuant to said
warrant, and those communications constitute evidence of a crime
that has been, is being and is about to be committed.

5. On information and belief the communications were in-
tercepted by members of the New York City Police Department who
were monitoring telephone calls at 835-3035 and recording

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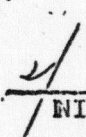
those that were pertinent. While monitoring telephone calls the detective overheard persons place telephone calls which he believes refer to the purchase and sale of narcotics.

6. On information and belief the eavesdropping warrant, a copy of which is attached hereto, was issued on the 26th day of April 1974 and was made effective on the 29th day of April 1974 for a period of time extending to the 28th day of May 1974.

7. On information and belief the extension to that eavesdropping warrant, a copy of which also attached hereto, was issued on May 28, 1974 to be effective May 29, 1974 for a period of time extending to June 27, 1974.

8. On information and belief the hereinabove described conversation indicates that there is probable cause to believe that the crimes of Criminal Possession of a Controlled Substance and Criminal Sale of a Controlled Substance; both in the First Degree have been, are being and are about to be committed over telephone number 835-3035.

WHEREFORE, the eavesdropping warrant issued on the 26th day of April 1974 and extended on May 28, 1974 should be amended to include the crime hereinbefore described and the communications, the substance of which has hereinbefore been set forth.


NICHOLAS FERRARO

Sworn to before me this
17th day of June 1974.

A-110

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 33-11 149th
Avenue, County of Queens, New York

AFFIDAVIT

STATE OF NEW YORK)

SS:

COUNTY OF QUEENS)

DETECTIVE ROBERT HALL, being duly sworn deposes and says:

1. I am a detective in the New York City Police Department shield #4021 assigned to the 16th Narcotics District.

2. Members of our department have been engaged in executing an Eavesdropping Warrant on telephonic instrument bearing the number 835-3035. While engaged in that duty conversations were intercepted, transcripts of which have been provided to me by my brother officers, copies of which are attached hereto and made a part hereof. Based on my experience as a Narcotics Investigator for in excess of four years, I believe that these conversations refer to the purchase of a kilo of narcotics drug in Mexico and the transportation of the same from Mexico, through Florida to the State of New York. In one specific conversation a party to the conversation refers to the exact amount, which is a kilo and uses the word "ki". In my experience as a Narcotics Investigator I have oftentimes heard a kilo referred to as a "ki"; and, in fact, the expression is used interchangeably by those who deal in Narcotics. The above mentioned Eavesdropping Warrant was signed by Honorable Bernard Dubin, Justice of the Supreme Court, State of New York, County of Queens on April 26, 1974 and duly extended by Justice Dubin on May 28, 1974.

A-111

3. It did not become obvious that these conversations concerned narcotics and not the crimes which were the subject of the Wiretap Order until the most recent conversation which took place on June 6, 1974 when the parties to the conversation discussed a flight to Mexico. Members of the Police Department who were monitoring this electronic interception at that point became convinced that this was a transaction regarding narcotics and came to us for our expertise in this field. Upon reading the transcripts of these conversations, I became convinced that it was not stolen property that was being discussed but was a controlled substance. Based upon my experience and knowledge as to the prices of drugs and based on the fact that the term "rocks" was used in one of these conversations and based on the fact that the substance is coming through Mexico, I believe that the substance about which these parties are speaking is cocaine. Although there is such a thing as rock heroin the price to be paid for a kilo of rock heroin would be well in excess of the approximate figure of \$40,000; the price about which these parties are speaking of selling for in New York City. The figure of approximately \$15,000 mentioned would be a reasonable price to expect to purchase a kilo of cocaine in the United States. Therefore, the conversations in their totality give me probable cause to believe that the above mentioned telephonic instrument number 835-3035 is being used for the conversations relative to the additional crime of Possession and Sale of a Controlled Substance.

4. The dates and times and parties to the conversation are indicated upon the transcripts of these conversations, which are attached hereto and made a part hereof.

WHEREFORE, I hereby request that the Eavesdropping Warrant and Order Extending the Eavesdropping Warrant, both signed by Honorable Bernard Dubin be amended to include the interceptions of conversations relative to the crimes of Criminal Possession and Sale of a Controlled Substance.

Det. R. L. A. Hall #11021 16.07
DETECTIVE ROBERT HALL

Sworn to this 7th
day of June 1974.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

-----X
IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

ORDER EXTENDING
EAVESDROPPING WARRANT

-----X
Upon reading the application of NICHOLAS FERRARO,
District Attorney of Queens County, sworn to the 28th day of
May 1974, made pursuant to the provisions of Section 700.40 of
the Criminal Procedure Law, and upon reading the affidavit of
Luis Gonzalez sworn to the 27th day of June 1974 and upon considering
the additional testimony or documentary evidence furnished by the
applicant in support of the application, and upon the examination,
under oath, of Det. Luis Gonzalez, Shield #64, recorded or summarized
in support of said application, and due deliberation having been had
thereon, and it further

APPEARING that an eavesdropping warrant was authorized by
the Honorable Justice Bernard Dubin, Supreme Court, County of Queens
on the 26th day of April 1974, and it further

APPEARING that said eavesdropping warrant was extended for
an additional 30 day period pursuant to an extension order issued
by the Honorable Justice Bernard Dubin on the 28th day of May 1974,
and it further

APPEARING that said eavesdropping warrant was amended
pursuant to an amendment order issued by the Honorable Justice Bernard
Dubin on the 12th day of June 1974.

NOW, on application of NICHOLAS FERRARO, District
Attorney of Queens County, State of New York, it is

ORDERED, that the persons whose communications are to
be intercepted shall be and the same hereby are identified as
follows:

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THOMAS FURY, JOSEPH DESTIO, MARIO BONOMO, THOMAS PIAMETA,
FRANK SARACENA, LEON PETERS, HAROLD W. DAILEY, and other unknown
persons one of whom is now identified as MICHAEL BOYA and it is further

ORDERED, that the nature and location of the communication
facilities as to which authority to intercept is granted, shall be
and the same hereby are as follows:

THOMAS FURY, 83-11 149th Avenue, Queens, New York;
and it is further

ORDERED, that the type of communications sought to be
intercepted are telephonic communications and shall be and the
same hereby are particularly described as follows:

835-3035, located at 83-11 149th Avenue, Queens, N.Y.
and the same relate to the particular designated offenses of
Grand Larceny in the Third and Second Degrees, Criminal Possession
of Stolen Property in the First and Second Degrees, and Conspiracies
to commit these crimes; and it is further

ORDERED, that the law enforcement agency authorized to
intercept the said communications shall be and the same hereby is
identified as follows:

Members of the New York City Police Department; and it
is further

ORDERED, that sufficient showing having been made in the
application therefor, the extended period of eavesdropping authorized
herein shall not and the same hereby is not to terminate when communications
of the type particularly described herein are first obtained; and it
is further

ORDERED, that this Order of Extension shall be executed
as soon as practicable and on or before its date of effect designated
herein; and it is further

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ORDERED, that the period of extension deemed necessary to achieve the purposes for which the Eavesdropping Warrant is granted shall be and the same is hereby determined to be no longer than thirty (30) days; and it is further

ORDERED, that the authorization of the Eavesdropping Warrant herein shall be and the same hereby is extended for a period not longer than thirty (30) days from the date of expiration thereof on the 27th day of June 1974 until the 26th day of July 1974; and it is further

ORDERED, that notwithstanding the authorization to intercept for a designated period contained in this Order of Extension, such authorization shall terminate and the same is hereby terminated upon attaining the objective authorized herein.

Benjamin R. Rubin

JUSTICE OF THE SUPREME COURT

June, 27, 1974

A-116

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York.

APPLICATION
FOR
EXTENSION

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

NICHOLAS FERRARO, being duly sworn deposes and says:
I am the District Attorney of the County of Queens
State of New York, and the applicant herein.

I make this application on information and belief pursuant
to the provisions of Section 700.40 of the Criminal Procedure
Law of the State of New York for an order of extension of an
Eavesdropping Warrant issued on the 26th day of April 1974 by
Mr. Justice Bernard Dubin, and it further

APPEARING that said Eavesdropping Warrant was extended
for an additional 30 day period pursuant to an Extension Order
issued by Mr. Justice Dubin on the 28th day of May 1974 and
it further

APPEARING that said Eavesdropping Warrant was amended
pursuant to an Amendment Order issued by said Justice Dubin
on the 12th day of June 1974.

Attached hereto and made a part of this Application
with the same force and effect as if reiterated verbatim herein
are the following:

Warrant of Eavesdropping issued April 26, 1974
Extension of Eavesdropping Order issued May 28, 1974
Amendment to Eavesdropping Order issued June 12, 1974

Any allegations of fact, in addition to those set
forth in the Application for Eavesdropping Warrant and any
previous Application for Extension, contained in this application
are based upon information and belief. All facts derived herein
are on information and belief from:

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DETECTIVE LUIS GONZALEZ, Shield #64, assigned to the Automobile Theft Squad, Zone B of the New York City Police Department.

Any limitation in the types of communications authorized to be intercepted under the Eavesdropping Warrant is as follows:

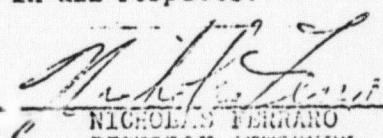
That the intercepted calls will be kept to a minimum and no non-pertinent call will be intercepted or recorded.

The facts establishing probable cause to believe, during the period of extension herein applied for, that the facilities from which or the place where, the communications are to be intercepted are being used in connection with the commission of said offenses, listed in the name of and commonly used by the persons whose communications are sought to be overheard are contained in the affidavit of DETECTIVE LUIS GONZALEZ.

The period of time for which the eavesdropping warrant is required to be extended is from the 27th day of June 1974 to the 26th day of July 1974.

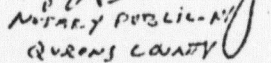
The applicant knows of no facts, except those already set forth herein, concerning previous applications obtained for an Eavesdropping Warrant involving the same persons, facilities or places specified in this Application and the action taken by the Justice on each such Application.

WHEREFORE, the applicant prays that an Order be made and entered for the issuance of an Extension of the Eavesdropping Warrant as herein applied for in all respects.


NICHOLAS FERRARO
DISTRICT ATTORNEY
QUEENS COUNTY

Sworn to before me this

27th day of June 1974.


NOTARY PUBLIC
QUEENS COUNTY
Commission Expires March 25, 1976

A-118

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM

-----X
IN THE MATTER OF :

The Application to Overhear and Record : AFFIDAVIT
Certain Communications over telephone
number 835-3035, located at 83-11 149th :
Avenue, County of Queens, New York.

-----X
STATE OF NEW YORK)
COUNTY OF QUEENS) ss:

LUIS GONZALEZ, being duly sworn deposes and
says:

1. I am a Detective, Shield #64, assigned to
the Automobile Theft Squad, Zone B of the New York City Police
Department.

2. I and other members of the New York City
Police Department have been engaged in an investigation into
the activities of Thomas Fury, Joseph Destio, Mario Bonomo,
Thomas Fiameta, Frank Saracena, Leon Peters, Harold W. Dailey, and
Micheal Bova who was not previously identified.

3. On the 26th of April 1974, Mr. Justice
Bernard Dubin of the Supreme Court, State of New York, County
of Queens, signed an Eavesdropping Warrant allowing the inter-
ception of conversations over telephonic instrument bearing the
number 835-3035, located at 83-11 149th Avenue, County of Queens,
New York. That Order allowed interceptions of communications
from 29th of April 1974 extending through the 28th day of
May 1974. Said Eavesdropping Warrant was subsequently extended
on the 28th day of May, 1974 and amended on the 12th day of June,
1974 by Mr. Justice Dubin.

4. Pursuant to that Order conversations were
intercepted and certain conversations were recorded. Copies of
those conversations are attached hereto and made a part hereof.
In the first conversation there is discussion relative to the
purchase of a whole "K" at \$1500. plus expenses which in the
parlance of narcotics means a kilo of a controlled substance.

A-119

In the second conversation there is a discussion of the deal concerning narcotics and references made about going south to make the buy. In the third conversation two individuals discuss the southern deal and an unknown person who wants it and will do it. I interpret this as referring to their anticipated deal to buy narcotics down south in the near future. The fourth conversation makes references to the one car being delivered and the plans to send three more if the first goes well. The money from these cars will allow them to make a trip by themselves. I interpret this as a representation of possession of stolen property and plans to dispose of it in order to provide money for them to complete a narcotics deal in the near future. The fifth conversation represents plans to sell one stolen car and use that money to move two or three more stolen cars south and sell them in the next week at auction. They make references that if the first car gets sold with no problems then they expect to send many more stolen cars through this system to dispose of them.

5. The intercepted calls will be kept to a minimum and no non-pertinent call will be intercepted or recorded.

6. As can be seen by the annexed conversations, such conversations are relevant to the possession of stolen goods and are obtained almost on a daily basis. These conversations also indicate a plan to acquire a certain amount of narcotics in the near future with the monies accumulated from the sale of these stolen goods. Therefore it is requested that the Warrant permitting such interceptions not automatically terminate when the above described conversations are first obtained. Considering the nature of the conspiracy and the manner and methods and codes used to relay information it is important that the interception of conversations not terminate after the first conversation concerning the crimes mentioned has been intercepted, but continue until the determination can be made of the identities

of any and all participants in the illegal activity which is the subject matter of this application including their places of operation, their criminal associates and the identification of their source of supply.

7. The reason this extension is sought is so that members of the Police Department can identify those persons as yet unidentified and referred to in paragraph two of this affidavit, the manner in which they distribute their stolen merchandise and the person to whom distributed, and places where the goods are stored. It is also required to enable these officers to uncover the details of the proposed narcotics deal and any other persons who may also be involved in it. It is absolutely necessary that this Eavesdropping Warrant be extended since the ordinary methods of gathering information and surveillance would be insufficient to provide the required details. The nature and extent of this operation demand that additional Eavesdropping be permitted in order to follow to completion the proposed plans of these persons concerning disposal of stolen property and the purchase of narcotics.

8. None of the conversations sought to be intercepted are legally privileged.

9. The period for which the Eavesdropping Warrant is required to be extended is from the 27th day of June 1974 to the 26th day of July 1974.

10. It is further respectfully requested that the warrant permitting such interceptions not automatically terminate when the above described type of communication is first obtained.

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11. To my knowledge, no previous application for the relief sought herein has been made to any other court or judge.

Rita E. Gonzalez
DETECTIVE LUIS GONZALEZ

Sworn to before me this

27 day of June 1974.

Fred A. Schumacher
FAS
NOTARY PUBLIC
No - 41-3551205
Quezon County,
Commission Expires March 23, 1976

At a Term of the Supreme Court
of the State of New York held
in and for the County of QUEENS
at the Courthouse located at 125-01
Queens Blvd., Kew Gardens, N.Y.
on the 26th day of July, 1974
31

P R E S E N T:

HON. ~~BERNARD DUBIN~~ *LEONARD L. FINZ*
Justice.

-----x
In the Matter of
the application to seal recordings of
communications authorized to be inter-
cepted by eavesdropping warrant issued
on the 26th day of April 1974
by Mr. Justice
to overhear and record certain communi-
cations over telephone number(s) 835-3035

ORDER SEALING
RECORDINGS AND
DETERMINING CUSTODY

on by ~~Mechanical Device~~ located at
83-11 149th Avenue Queens
-----x

Upon receipt of the recordings of communications
made pursuant to § 700.35 of the Criminal Procedure Law
and an eavesdropping warrant issued on the 26th day of April
1974, by Mr. Justice BERNARD DUBIN, and upon the expira-
tion of the period authorized under said warrant and order(s)
of extension thereof, *and said Justice Bernard
Dubin being unavailable,*
NOW, on application of NICHOLAS FERRARO
District Attorney, County of QUEENS, State of New York,
it is

A ORDERED, that the said recordings shall be and
the same hereby are sealed; and it is further

ORDERED, that the said recordings shall be and
the same hereby are to be kept in the custody of NICHOLAS
FERRARO, DISTRICT ATTORNEY, at the following location:
125-01 Queens Blvd., Kew Gardens, New York

E n t e r,

Dated: 21

July 30, 1974
Kew Gardens, N.Y. Queens County

Leonard L. Finz
Justice of the Supreme Court
JLC

At a Term of the Supreme Court
of the State of New York, held
in and for the County of Queens

P R E S E N T:

HON. BERNARD DUBIN

Justice.

-----X
IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

ORDER OF POSTPONEMENT
OF SERVICE OF NOTICE
AND INVENTORY
-----X

Upon reading the application of NICHOLAS FERRARO
District Attorney, County of Queens, State of New York,
sworn to the 21st day of October 1974, and the affidavit of
Detective Luis Gonzalez sworn to the 21st day of October 1974,
made pursuant to the provisions of 700.50 (4) of the Criminal
Procedure Law, and upon reading the eavesdropping warrant
together with the application and all accompanying papers upon
which it was issued, and renewed and amended, in support of
said application and due deliberation having been had thereon,
and it having been found as a fact that good cause and exigent
circumstances have been shown,

NOW, on the application of NICHOLAS FERRARO, District
Attorney of Queens County, State of New York, it is

ORDERED, that said application for postponement of
service of notice and inventory with respect to the within
eavesdropping warrant be and the same is hereby granted; and it is
further

ORDERED, that the postponement of said service be
and the same shall hereby be for a period of ninety days from
the date of this order.

Dated: *55*
October 21, 1974

Bernard Dubin
Justice, Supreme Court

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

APPLICATION FOR ORDER
OF POSTPONEMENT OF
NOTICE AND INVENTORY

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

NICHOLAS FERRARO being duly sworn, deposes and says:

I am District Attorney of the County of Queens, State
of New York, and the applicant herein.

I make this Application, pursuant to the provisions
of Section 700.50 (4) of the Criminal Procedure Law for an
Order postponing service of written notice and Inventory of an
eavesdropping warrant and of the period of authorized eavesdropping
pursuant thereto, and the serving of the required inventory.

The facts showing good cause and exigent circumstances
for postponement of said service are as follows:

Upon information and belief, the subject of the
aforesaid eavesdropping warrant is currently under investigation
by the Federal Bureau of Investigation. That notice of the said
subject would result in the frustration of the continuing
investigation into the crimes of Grand Larceny in the Second and
Third Degrees, Criminal Possession of Stolen Property in the
First and Second Degrees, and Conspiracies to Commit these crimes.

Upon information and belief, the postponement of said
service should be for a period of ninety days from the date of
making any order in connection with this application.

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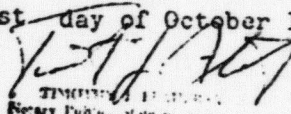
Upon information and belief, no prior application has been made for the relief sought herein.

WHEREFORE, the application for postponement should be granted in all respects.


DISTRICT ATTORNEY

Sworn to before me this

21st day of October 1974.


TIMOTHY J. BROWN
Notary Public, State of Illinois
No. 4166011
Term Expires August 1976

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM

IN THE MATTER OF

The Application to Overhear and Record Certain
Communications over telephone number 835-2035
located at 83-11 149th Avenue, County of Queens
New York, N. Y.

AFFIDAVIT IN
SUPPORT OF
APPLICATION FOR
ORDER OF POST-
PONEMENT

STATE OF NEW YORK)
COUNTY OF QUEENS) SS:

LUIS GONZALEZ, being duly sworn deposes and
says that

I am a Detective, Shield #64 of the New York
City Police Department assigned to Automobile Theft Squad,
Zone B.

I make this affidavit pursuant to the provisions
of Section 700.50 (4) of the Criminal Procedure Law for an
order postponing service of written notice of an eavesdropping
warrant and of the period of authorized eavesdropping pursuant
thereto, and the serving of the required inventory.

The facts showing good cause and exigent circum-
stances for postponement of said service are as follows:

The subject of the aforesaid eavesdropping warrant
is currently under investigation by the Federal Bureau of
Investigation. That notice to the said subject would result
in the frustration of the continuing investigation into the
crimes of Grand Larceny in the Second and Third Degrees,
Criminal Possession of Stolen Property in the First and Second
Degree and Conspiracies to Commit these crimes.

Upon information and belief, such notice would also
frustrate investigation into other and additional crimes of the
same or of a different nature.

SWORN to before me
this 21st day of
October 1974.

GERALDINE A. FERRARO ESQ
NOTARY PUBLIC, State of New York
No. 416277500
Qualified in Queens County
Commission Expires 12/31/76

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Please take notice that the within is a true
copy of a

entered in the office

Clerk of
day of 19
Dated, 19

Yours, etc.

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

KEW GARDENS 11415

NEW YORK

520-2000

, Esq.

Attorney for

Please take notice that of which
this is a true copy will be presented
to the court and signature herein to Mr.

City of New York,

day of 19

in the noon.

19

Yours, etc.

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

KEW GARDENS 11415

NEW YORK

520-2000

, Esq.

Attorney for

SUPREME COURT: STATE OF N.Y.
COUNTY OF QUEENS

THE PEOPLE OF THE STATE

OF NEW YORK,

In the Matter of the Application to Overhear and Record
Certain Communications over
telephones number 635-3035
located at 63-11 149th Avenue
County of Queens, New York,
N.Y.

ORDER OF POSTPONEMENT

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

KEW GARDENS 11415

NEW YORK

520-2000

BEST COPY AVAILABLE

A-128

E-796-Q1

24th Dec

At a Term of the Supreme Court
of the State of New York, held in
and for the County of Queens on
the 10th day of February, 1975
at 125-01 Queens Blvd., Kew Gardens
New York

P R E S E N T:

HON. BERNARD DUBIN,

Justice.

IN THE MATTER OF

the Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

RENEWAL
ORDER OF POSTPONEMENT
OF SERVICE OF NOTICE &
INVENTORY

Upon reading the Application of NICHOLAS FERRARO,
District Attorney, County of Queens, State of New York, sworn to
the 21st day of October, 1974, and the Affidavit of Detective
Luis Gonzalez, sworn to the 21st day of October, 1974, and a
further Affidavit sworn to the 5th day of February, 1975, pursuant
to the provisions of §700.50 (4) of the Criminal Procedure Law,
and upon reading the Eavesdropping Warrant together with the
Application and all accompanying papers upon which it was issued,
renewed, and amended, in support of said Application and due
deliberation having been had thereon, and it having been found as
a fact that good cause and exigent circumstances have been shown,

NOW, on the Application of Nicholas Ferraro, District
Attorney of Queens County, State of New York, it is

ORDERED, that said Application for Postponement of
service of notice and inventory with respect to the within
Eavesdropping Warrant be and the same is hereby granted; and it is
further

ORDERED, that the postponement of said service be and
the same shall hereby be for a period of ninety days from

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the date of this Order.

Bernard L. Stein
JUSTICE OF THE SUPREME COURT

Dated: Kew Gardens, New York
February 10th, 1975

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM

IN THE MATTER OF

the Application to Overhear and Record
Certain Communications over telephone
number 835-3035 located at 83-11 149th
Avenue, County of Queens, New York, N.Y.

APPLICATION FOR ORDER
OF POSTPONEMENT OF
NOTICE AND INVENTORY

STATE OF NEW YORK)
:ss.:
COUNTY OF QUEENS)

NICHOLAS FERRARO, being duly sworn, deposes and says:
I am District Attorney of the County of Queens, State of
New York, and the Applicant herein.

I make this Application, pursuant to the provisions
of §700.50 (4) of the Criminal Procedure Law for an Order
postponing service of written notice and inventory of an
Eavesdropping Warrant and of the period of authorized eavesdropping
pursuant thereto, and the serving of the required inventory.

The facts showing good cause and exigent circumstances
for the postponement of said service are as follows:

Upon information and belief, the subject of the
aforesaid Eavesdropping Warrant is currently under investigation
by the Federal Bureau of Investigation. That notice of the
said subject would result in the frustration of the continuing
investigation into the crimes of Grand Larceny in the Second and
Third Degrees, Criminal Possession of Stolen Property in the First
and Second Degrees, and Conspiracies to commit these crimes.

Upon information and belief, the postponement of said
service should be for a period of ninety days from the date of
making any order in connection with this application.

Upon information and belief, prior application has
made and granted on October 21, 1974, for the relief sought:

WHEREFORE, the application for postponement should
granted in all respects.

[Signature]
DISTRICT ATTORNEY

Sworn to before me this
10th day of February, 1975

Claire T. Caren

CLAIRE T. CAREN
Notary Public, State of New York
No. 41-5667750 Queens County
Term Expires March 30, 1976

mp/2/5/75

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS ; criminal term

IN THE MATTER OF

The Application to Overhear and Record Certain:
Communications over telephone number 835-3035 :
located at 83-11 149th Avenue, County of Queens :
New York, N.Y. :

AFFIDAVIT IN
SUPPORT OF APPLICATION
FOR ORDER OF POST-
PONEMENT

STATE OF NEW YORK)
COUNTY OF QUEENS) ss.:

LUIS GONZALES, being duly sworn deposes and says that:
I am Detective, Shield #64, of the New York City
Police Department assigned to Automobile Theft Squad, Zone B.

I make this affidavit pursuant to the provisions of
§700.50 (4) of the Criminal Procedure Law for an Order postponing
service of written notice of an eavesdropping Warrant and of the
period of authorized eavesdropping pursuant thereto, and the
serving of the required inventory.

The facts showing good cause and exigent circumstances
for postponement of said service are as follows:

The subject of the aforesaid Eavesdropping Warrant
is currently under investigation by the Federal Bureau of Investi-
gation. That notice to the said subject would result in the frustra-
tion of the continuing investigation into the crimes of Grand Larceny
in the Second and Third Degrees, Criminal Possession of Stolen
Property in the First and Second Degree and Conspiracy to commit these
crimes.

Upon information and belief, such notice would also
frustrate investigation into other and additional crimes of the
same or of a different nature.

Sworn to before me
day of February, 1975

Luis Gonzales
LUIS GONZALES

Notary Public
No. 41-821
Term Expires 76

day of 19

day of 19

A-133

Please take notice that the within is a true
of a

entered in the office

Clerk of

day of 19

Dated, 19

Yours, etc.

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

Kew Gardens 11415

New York

520-2000

. Esq.

Attorney for

Please take notice that of which
this is a true copy will be presented
and signature herein to Mr.

of

Court at

City of New York,

Borough of

day of 19

o'clock in the noon.

Dated, 19

Yours, etc.

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

Kew Gardens 11415

New York

520-2000

. Esq.

Attorney for

**THE PEOPLE OF THE STATE
OF NEW YORK,**

IN THE MATTER OF

~~XXXXXXXX~~

THE Application to Over hear
AND RECORD CERTAIN COMMUNICA-
TIONS OVER TELEPHONE NO. 835-
3035 located at 83-11 149th
Avenue, County of Queens.

**ORDER OF POSTPONEMENT OF
SERVICE OF NOTICE &
INVENTORY**

NICHOLAS FERRARO

District Attorney of Queens County

Office and P. O. Address

125-01 QUEENS BOULEVARD

Kew Gardens 11415

New York

520-2000

AP-9-10-116051(74) of 7-216

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BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA

AFFIDAVIT

- against -

Docket No. 75 CR 238

JOHN QUINN,
THOMAS FURY and
CLARK JOHNSTON,

Defendants.
----- X

STATE OF NEW YORK

COUNTY OF KINGS

)
)-SS:
)

LUIS GONZALEZ, being duly sworn, deposes and
says:

1. I am a detective with the New York City Police Department, and I furnish this affidavit with respect to the electronic eavesdropping warrant issued by Justice Bernard Dubin of the Supreme Court, Queens County, New York, on April 20, 1974 on the telephone instrument bearing the number 835-3035, listed in the name of Thomas Fury, 83-11 149th Avenue, Queens, New York.

2. I make this affidavit specifically in connection with the sealing of tape recordings of conversations intercepted in the course of the operation of the above-mentioned wiretap.

3. The wiretap was terminated at 9:00 A.M. on Thursday, July 25, 1974. On the afternoon of July 25, 1974, I personally transported to the Queens County District Attorney's Office for sealing the original tape recordings of conversations intercepted in the course of

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the operation of the Fury wiretap, together with the original transcripts of conversations which were prepared by the officers who operated the wiretap.

4. At the District Attorney's Office I presented the tapes and transcripts to Marj Caputo so that she could prepare the return of the eavesdropping warrant for the District Attorney's signature and the order sealing the tapes for Justice Dubin's signature.

5. Shortly after I had presented the tapes and transcripts to Ms. Caputo, Ms. Caputo advised me that Justice Dubin was not available that day and that, consequently, we would have to place the tapes and transcripts in the vault at the District Attorney's Office. Shortly thereafter, still on July 25, 1974, I accompanied Ms. Caputo to the vault with the tapes and transcripts, and I personally observed the tapes and transcripts being placed in the vault.

LUIS GONZALEZ

Sworn to before me this
day of July, 1976

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RP:AAS:sd
#731651

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

AFFIDAVIT

- against -

Docket No. 75 CR 238

JOHN QUINN,
THOMAS FURY and
CLARK JOHNSON,

Defendants.

----- X

STATE OF NEW YORK

COUNTY OF KINGS

)
) SS:
)

MARY CAPUTO, being duly sworn, deposes and says:

1. I am a legal secretary at the Queens County District Attorney's Office. I have worked at the District Attorney's Office since 1973. I furnish this affidavit with respect to the electronic eavesdropping warrant issued by Justice Bernard Dubin of the Supreme Court, Queens County, New York, on April 26, 1974 on the telephone instrument bearing the number 835-3035, listed in the name of Thomas Fury, 83-11 149th Avenue, Queens, New York.

2. I make this affidavit specifically in connection with the sealing of tape recordings of conversations intercepted in the course of the operation of the above-mentioned wiretap.

3. During the months of May, June, July and August in 1974 my duties included the typing and preparing of returns and sealing orders in connection with the execution of court-ordered wiretaps. As a result, I am familiar with the procedures of the Queens County District

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Attorney's Office at that time in regard to the sealing of tape recordings of conversations intercepted during a wiretap. Those procedures were as follows: As soon as the tapes were brought to the District Attorney's Office a return and sealing order would be prepared. The return was to be signed by the District Attorney; the sealing order was to be signed by the Supreme Court Justice who issued the wiretap. After the return and sealing papers had been prepared, they would be presented to the District Attorney and the appropriate justice for signing.

4. On the afternoon of July 25, 1974 Detective Luis Gonzalez presented to me for sealing tapes and transcripts from the Fury wiretap. Shortly after the arrival of Detective Gonzalez in the office, I called Justice Dubin's chambers to see if the judge would be available to sign the sealing order. Upon being advised that the judge was not in his chambers, I went, still on the afternoon of July 25, 1974, with Detective Gonzalez to the office vault to have the tapes from the wiretap securely stored until Justice Dubin was available. I personally observed the tapes and transcripts being placed in the vault.

5. The office vault is secured by a combination lock. The only people in the office at that time who knew the combination and who were permitted access to the vault were the District Attorney himself and two deputy Chief Assistants.

6. It is my best recollection that Justice Dubin was not available to sign the sealing papers on either Friday, July 26th or Monday July 29th. On either Monday July 29th or Tuesday July 30th I learned that Justice Dubin was on vacation, and at that time it was determined that the sealing order should be signed by another justice who was available. On Tuesday, July 30, 1974, District Attorney Ferraro signed the return of the eavesdropping warrant, and on Wednesday, July 31, 1974 Justice Finz signed the sealing order.

7. During the period between July 25, 1974 and July 31, 1974 the tapes and transcripts from the Fury wiretap were kept in the vault referred to in paragraph 6 above. After the tapes and transcripts were sealed by Justice Finz, they were returned to the same vault.

MARY CAPUTO

Sworn to before me this
day of July 1976

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RECEIVED
U. S. ATTORNEY
DEC 15 4 27 PM '76
EAST. DIST. N. Y.

Paula
Garmon